



# FEDERAL REGISTER

---

Vol. 86

Monday

No. 140

July 26, 2021

Pages 39939–40140

OFFICE OF THE FEDERAL REGISTER



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see [www.federalregister.gov](http://www.federalregister.gov).

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at [www.govinfo.gov](http://www.govinfo.gov), a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, [gpocusthelp.com](mailto:gpocusthelp.com).

The annual subscription price for the **Federal Register** paper edition is \$860 plus postage, or \$929, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see [bookstore.gpo.gov](http://bookstore.gpo.gov).

There are no restrictions on the republication of material appearing in the **Federal Register**.

**How To Cite This Publication:** Use the volume number and the page number. Example: 86 FR 12345.

**Postmaster:** Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

## SUBSCRIPTIONS AND COPIES

### PUBLIC

#### Subscriptions:

Paper or fiche	202-512-1800
Assistance with public subscriptions	202-512-1806

**General online information** 202-512-1530; 1-888-293-6498

#### Single copies/back copies:

Paper or fiche	202-512-1800
Assistance with public single copies	1-866-512-1800 (Toll-Free)

### FEDERAL AGENCIES

#### Subscriptions:

Assistance with Federal agency subscriptions:

Email	<a href="mailto:FRSubscriptions@nara.gov">FRSubscriptions@nara.gov</a>
Phone	202-741-6000

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: <https://www.gpo.gov/frsubs>.



# Contents

## Federal Register

Vol. 86, No. 140

Monday, July 26, 2021

### Agricultural Marketing Service

#### RULES

Administering the Specialty Crop Block Grant Program, 39941

### Agriculture Department

*See* Agricultural Marketing Service

*See* Office of Partnerships and Public Engagement

*See* Rural Business-Cooperative Service

### Air Force Department

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 40020

### Antitrust Division

#### NOTICES

Changes Under the National Cooperative Research and Production Act:

Advanced Media Workflow Association, Inc., 40080

ASTM International Standards, 40079

CHEDE-8, 40079-40080

Electrified Vehicle and Energy Storage Evaluation, 40079

Open RF Association, Inc., 40078-40079

The Institute of Electrical and Electronics Engineers, Inc., 40079

### Centers for Disease Control and Prevention

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 40047-40058

Meetings:

Advisory Committee on Immunization Practices, 40058-40059

Mine Safety and Health Research Advisory Committee; Cancellation, 40051

National Center for Health Statistics; ICD-10 Coordination and Maintenance Committee, 40054-40055

### Coast Guard

#### RULES

Drawbridge Operations:

Fox River, Oshkosh, WI, 39963-39965

Okeechobee Waterway, Indiantown, FL, 39961-39963

Special Local Regulation:

Tennessee River Miles 648 to 650, Knoxville, TN, 39959-39961

### Commerce Department

*See* Economic Development Administration

*See* International Trade Administration

*See* National Institute of Standards and Technology

*See* National Oceanic and Atmospheric Administration

*See* Patent and Trademark Office

### Consumer Product Safety Commission

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Hazard Warning Communication Survey, 40018-40019

Consumer Product Safety Commission FY 2019 Service Contract Inventory, FY 2018 Service Contract Inventory Analysis, and Plan for FY 2019 Inventory Analysis, 40019-40020

### Defense Department

*See* Air Force Department

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 40020-40021

### Economic Development Administration

#### NOTICES

Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance, 40003-40004

### Education Department

#### RULES

Final Priority and Requirements:

Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are DeafBlind Program, 39965-39978

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Implementation of Title I/II-A Program Initiatives—Preliminary Activities, 40031-40032

National Implementation Study of Student Support and Academic Enrichment Grants, 40028-40029

Title I, Part A Accountability Waiver Requests for School Year 2020-2021, 40021

Applications for New Awards:

Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are DeafBlind Program, 40021-40028

Request for Information:

Public Service Loan Forgiveness Program, 40029-40031

### Energy Department

*See* Federal Energy Regulatory Commission

#### NOTICES

Inquiry on Preparation of Report to Congress on the Price-Anderson Act, 40032-40036

Request for Information:

Supporting Energy Savings Performance Contracting in the Public Sector, 40036-40037

### Environmental Protection Agency

#### RULES

Air Quality State Implementation Plans; Approvals and Promulgations:

Missouri; Removal of Control of Emissions from the Application of Deadeners and Adhesives, 39978-39979

#### PROPOSED RULES

Air Quality State Implementation Plans; Approvals and Promulgations:

Missouri; Open Burning; Withdrawal, 39988-39989

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Landfill Methane Outreach Program, 40044-40045

Clean Air Act Operating Permit Program:  
Petition To Object to Operating Permits for the Drews  
and Century Power Generating Facilities in Southern  
California, 40045

### **Federal Aviation Administration**

#### **RULES**

Airspace Designations and Reporting Points:  
Craig, AK, 39956–39957  
Northeast Corridor Atlantic Coast Routes; Northeastern  
United States, 39953–39956  
Northeast United States, 39958–39959  
Northeastern United States, 39952–39953, 39957–39958  
Vicinity of Rockford, IL, 39949–39952

#### **Airworthiness Directives:**

Various Restricted Category Helicopters, 39942–39949  
Removal of the Special Rule for Model Aircraft; Correction,  
39942

#### **PROPOSED RULES**

Airspace Designations and Reporting Points:  
McChord Field (Joint Base Lewis-McChord), WA, 39986–  
39988

#### **Airworthiness Directives:**

Leonardo S.p.a. Helicopters, 39984–39986

#### **NOTICES**

Petition for Exemption; Summary:  
Joshua Aaron Alameda, 40134–40135

### **Federal Communications Commission**

#### **NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 40045–40046

### **Federal Election Commission**

#### **NOTICES**

Meetings; Sunshine Act, 40046

### **Federal Emergency Management Agency**

#### **NOTICES**

Final Flood Hazard Determinations, 40067–40068  
Flood Hazard Determinations; Proposals, 40068–40072  
Proposed Flood Hazard Determinations for Bay County,  
Florida and Incorporated Areas; Withdrawal, 40069  
Proposed Flood Hazard Determinations for Franklin  
County, Florida and Incorporated Areas; Withdrawal,  
40071

### **Federal Energy Regulatory Commission**

#### **NOTICES**

#### **Application:**

Northbrook Lyons Falls, LLC, 40040  
Combined Filings, 40042–40043  
Environmental Assessments; Availability, etc.:  
Dominion Energy South Carolina, Inc., 40039–40040  
Initial Market-Based Rate Filings Including Requests for  
Blanket Section 204 Authorizations:  
CPRE 1 Lessee, LLC, 40038  
Generation Bridge Connecticut Holdings, LLC, 40039  
Generation Bridge M and M Holdings, LLC, 40037  
Glacier Sands Wind Power, LLC, 40040–40041  
In Commodities US, LLC, 40042  
Lancaster Solar LLC, 40041  
Prairie Wolf Solar, LLC, 40042  
SR Georgia Portfolio II Lessee, LLC, 40041–40042  
SR Lumpkin, LLC, 40038  
SR Snipesville II, LLC, 40038–40039  
Tulare Solar Center, LLC, 40037  
Records Governing Off-the-Record Communications, 40043–  
40044

### **Federal Motor Carrier Safety Administration**

#### **NOTICES**

Parts and Accessories Necessary for Safe Operation:  
Application for an Exemption from EROAD Inc., 40135–  
40136

### **Federal Railroad Administration**

#### **NOTICES**

Petition for Waiver of Compliance, 40136–40137

### **Federal Reserve System**

#### **NOTICES**

Changes in Bank Control:  
Acquisitions of Shares of a Bank or Bank Holding  
Company, 40046–40047  
Formations of, Acquisitions by, and Mergers of Bank  
Holding Companies, 40047

### **Fiscal Service**

#### **NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:  
Annual Letters—Certificates of Authority (A) and  
Admitted Reinsurer (B), 40137

### **Food and Drug Administration**

#### **NOTICES**

Final Debarment Order:  
Jonathan Doyle, 40063–40064  
Medical Devices:  
Class I Surgeon's and Patient Examination Gloves,  
40061–40063  
Meetings:  
Cellular, Tissue and Gene Therapies Advisory  
Committee, 40059–40061

### **Health and Human Services Department**

*See Centers for Disease Control and Prevention*

*See Food and Drug Administration*

*See Health Resources and Services Administration*

*See National Institutes of Health*

#### **NOTICES**

Best Practices for Advancing Cultural Competency,  
Language Access and Sensitivity Toward Asian  
Americans and Pacific Islanders, 40066

#### **Meetings:**

Tick-Borne Disease Working Group, 40065–40066

### **Health Resources and Services Administration**

#### **NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:  
COVID–19 Provider Relief Fund Reporting Activities,  
40064–40065

### **Homeland Security Department**

*See Coast Guard*

*See Federal Emergency Management Agency*

*See Transportation Security Administration*

### **Housing and Urban Development Department**

#### **NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:  
Housing Counseling Agency Activity Report, 40074–  
40075  
Manufactured Housing Dispute Resolution Program,  
40075–40076

Multifamily Insurance Benefits Claims Package, 40076  
Survey To Assess Operational and Capacity Status of  
Housing Counseling Agencies Due to Disaster/  
National Emergency, 40076–40077

### Internal Revenue Service

#### NOTICES

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 40137–40139  
Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:  
Voluntary Disclosure Practice and the Streamlined Filing  
Compliance Procedures, 40138–40139

### International Trade Administration

#### NOTICES

Antidumping or Countervailing Duty Investigations, Orders,  
or Reviews:  
Urea Ammonium Nitrate Solutions from the Russian  
Federation and the Republic of Trinidad and Tobago,  
40004–40008  
Initiation of Less-Than-Fair-Value Investigations:  
Urea Ammonium Nitrate Solutions from the Russian  
Federation and the Republic of Trinidad and Tobago,  
40008–40013  
Meetings:  
Advisory Committee on Supply Chain Competitiveness,  
40013

### International Trade Commission

#### NOTICES

Investigations; Determinations, Modifications, and Rulings,  
etc.:  
Certain Smart Thermostats, Smart HVAC Systems, and  
Components Thereof, 40077–40078

### Justice Department

See Antitrust Division

### Labor Department

See Mine Safety and Health Administration  
See Occupational Safety and Health Administration

#### NOTICES

Secretary's Order 02–2021—To Withdraw Secretary's Order  
10–2020, Statement of Policy Regarding Independence  
of Advisory Committee Members, 40080–40081

### Mine Safety and Health Administration

#### NOTICES

Petition for Modification of Application of an Existing  
Mandatory Safety Standard, 40081–40082

### National Aeronautics and Space Administration

#### NOTICES

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:  
Property in the Custodian of Contractors, 40085–40086

### National Credit Union Administration

#### NOTICES

Meetings; Sunshine Act, 40086

### National Institute of Standards and Technology

#### NOTICES

Meetings:  
Information Security and Privacy Advisory Board, 40013–  
40014

### National Institutes of Health

#### NOTICES

Meetings:  
Advisory Committee on Research on Women's Health,  
40066  
National Institute on Aging, 40067

### National Oceanic and Atmospheric Administration

#### NOTICES

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:  
Pacific Islands Region Seabird-Fisheries Interaction  
Recovery Reporting, 40014–40015

### Nuclear Regulatory Commission

#### PROPOSED RULES

Receipts-Based Size Standards, 39980–39984

#### NOTICES

Exemption:  
Florida Power and Light Co., St. Lucie Plant, Unit No. 2,  
40086–40088  
Meetings; Sunshine Act, 40089

### Occupational Safety and Health Administration

#### NOTICES

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:  
Beryllium Standards for General Industry, 40083–40085  
Reports of Injuries to Employees Operating Mechanical  
Power Presses, 40082–40083

### Office of Partnerships and Public Engagement

#### NOTICES

Funding Opportunity:  
Outreach and Assistance for Socially Disadvantaged  
Farmers and Ranchers and Veteran Farmers and  
Ranchers, 39990–40000

### Patent and Trademark Office

#### NOTICES

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:  
Patent Reexaminations, Supplemental Examinations, and  
Post Patent Submissions, 40015–40018

### Presidential Documents

#### ADMINISTRATIVE ORDERS

National Defense Authorization Act for Fiscal Year 2020;  
Delegation of Authority Under Section 1285  
(Memorandum of July 19, 2021), 39939

### Rural Business-Cooperative Service

#### NOTICES

Request for Applications:  
Rural Energy for America Program, 40000–40003

### Securities and Exchange Commission

#### NOTICES

Joint Industry Plan:  
Order Instituting Proceedings To Determine Whether To  
Approve or Disapprove an Amendment to the  
National Market System Plan Governing the  
Consolidated Audit Trail, 40114–40134  
Meetings; Sunshine Act, 40114  
Self-Regulatory Organizations; Proposed Rule Changes:  
Cboe EDGX Exchange, Inc., 40097–40101  
Miami International Securities Exchange, LLC, 40104–  
40108

MIAX PEARL, LLC, 40092–40097  
NYSE American, LLC, 40089–40092  
NYSE Arca, Inc., 40102–40104, 40111–40114  
NYSE National, Inc., 40108–40110

**Small Business Administration****NOTICES**

Disaster Declaration:  
Georgia, 40134

**Transportation Department**

*See* Federal Aviation Administration  
*See* Federal Motor Carrier Safety Administration  
*See* Federal Railroad Administration

**Transportation Security Administration****NOTICES**

Exemption for Exclusive Area Agreements at Certain  
Airports, 40072–40074

**Treasury Department**

*See* Fiscal Service

*See* Internal Revenue Service

**NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:

Fiscal Service Implementing Regulations for the  
Government Securities Act of 1986, as Amended,  
40139–40140

---

**Reader Aids**

Consult the Reader Aids section at the end of this issue for  
phone numbers, online resources, finding aids, and notice  
of recently enacted public laws.

To subscribe to the Federal Register Table of Contents  
electronic mailing list, go to [https://public.govdelivery.com/  
accounts/USGPOOFR/subscriber/new](https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new), enter your e-mail  
address, then follow the instructions to join, leave, or  
manage your subscription.

---

**CFR PARTS AFFECTED IN THIS ISSUE**

---

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

**3 CFR****Administrative Orders:**

## Memorandums:

Memorandum of July  
19, 2021 .....39939

**7 CFR**

1291 .....39941

**10 CFR****Proposed Rules:**

2 .....39980  
171 .....39980

**14 CFR**

1 .....39942  
39 .....39942  
61 .....39942  
71 (6 documents) .....39949,  
39952, 39953, 39956, 39957,  
39958  
101 .....39942  
107 .....39942

**Proposed Rules:**

39 .....39984  
71 .....39986

**33 CFR**

100 .....39959  
117 (2 documents) .....39961,  
39963

**34 CFR**

Ch. III .....39965

**40 CFR**

52 .....39978

**Proposed Rules:**

52 .....39988

---

Federal Register

Vol. 86, No. 140

Monday, July 26, 2021

---

# Presidential Documents

Title 3—

Memorandum of July 19, 2021

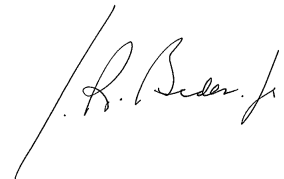
The President

## Delegation of Authority Under Section 1285 of the National Defense Authorization Act for Fiscal Year 2020

### Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of Defense the authority and functions vested in the President by section 1285(a) through (e) of Public Law 116–92 on the use of military force and support of partner forces to the Congress.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,  
*Washington, July 19, 2021*

[FR Doc. 2021–15956

Filed 7–23–21; 8:45 am]

Billing code 5001–06–P

# Rules and Regulations

Federal Register

Vol. 86, No. 140

Monday, July 26, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1291

[Doc. No. AMS-TM-20-0098]

#### Administering the Specialty Crop Block Grant Program

**AGENCY:** Agricultural Marketing Service, U.S. Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes the regulations pertaining to the Specialty Crop Block Grant Program (SCBGP). The regulations, which were established in 2006 as a matter of U.S. Department of Agriculture (USDA) policy, are duplicative of and in conflict with the recent revisions to the Office of Management and Budget's (OMB) Office of Federal Financial Management's Guidance for Grants and Agreements. Consequently, the SCBGP-specific regulations are no longer needed. The Agricultural Marketing Service (AMS) is removing the obsolete regulations in order to align its grant programs with OMB requirements and implement the programs efficiently. AMS will continue to administer SCBGP according to the OMB regulations.

**DATES:** This rule is effective on July 26, 2021.

#### FOR FURTHER INFORMATION CONTACT:

Nicole Nelson Miller, Grants Division Director, or Carly Borgmeier, Specialty Crop Block Grant Program Team Lead, Grants Division, AMS, USDA; Telephone: (202) 720-0188, or Email: [Nicole.NelsonMiller@usda.gov](mailto:Nicole.NelsonMiller@usda.gov) or [CarlyM.Borgmeier@usda.gov](mailto:CarlyM.Borgmeier@usda.gov).

**SUPPLEMENTARY INFORMATION:** This final rule removes the regulations to implement the SCBGP at 7 CFR part 1291. This action conforms with recent amendments to OMB's regulations on Grants and Agreements related to reporting, oversight, and audit requirements. AMS will continue to

administer Specialty Crop Block Grants according to the revised provisions of 2 CFR part 200, which became effective November 12, 2020 (85 FR 49506; August 13, 2020).

#### Background

Ten grant programs are currently implemented for USDA under AMS's Transportation and Marketing Program. Eight of these grant programs are competitively bid, and two are non-competitively awarded to State agencies. The SCBGP is a non-competitive grant program mandated under section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note), and amended under section 10107 of the 2018 Farm Bill, to make grants to States to be used by State departments of agriculture to enhance the competitiveness of specialty crops. The SCBGP defines specialty crops as "Fruits and vegetables, tree nuts, dried fruits, horticulture, and nursery crops (including floriculture)."

AMS Grant Programs, which include the SCBGP, are authorized pursuant to the Agricultural Marketing Act of 1946 (AMA) (7 U.S.C. 1621, *et. seq.*) and the Farmer-to-Consumer Direct Marketing Act of 1976 (FCDMA) (7 U.S.C. 3001), and are implemented through the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Super Circular) (2 CFR part 200). Although not required to do so under the provisions of the APA, AMS established separate regulations pertaining to the SCBGP in 2006 (71 FR 53303; September 11, 2006) through notice and comment rulemaking as a matter of USDA policy. USDA revoked its policy concerning rulemaking for grant programs in 2013 (78 FR 64194; October 28, 2013). As well, OMB's revisions to 2 CFR part 200 changed requirements for Federal awards to non-Federal entities.

The regulations at 7 CFR part 1291 are duplicative of and in conflict with the updated guidance at 2 CFR part 200. Therefore, AMS is removing 7 CFR part 1291 to better align its programs with OMB's Guidance for Grants and Agreements and improve efficiency in the management of the SCBGP.

This action pertains to the making of Federal grants to enhance the competitiveness of specialty crops. The Administrative Procedures Act (APA), 5 U.S.C. 553, authorizes USDA to take

actions related to grants management without notice and comment rulemaking. Further, such actions may be made effective in fewer than 30 days after publication in the **Federal Register**. Therefore, this final rule is effective upon publication.

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that OMB exempted from Executive Order 12866 review.

As required by the Regulatory Flexibility Act (5 U.S.C. 601-612), AMS certifies that this final rule does not have a significant economic impact on small business entities. Neither grant recipients nor subrecipients will be impacted by this final rule.

This final rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

#### List of Subjects in 7 CFR Part 1291

Agriculture, Foods, Fruits, Grant programs-agriculture, Reporting and record keeping requirements, Specialty crop block grants, State and local governments, Vegetables.

#### PART 1291—[REMOVED]

■ For the reasons stated in the preamble, and under the authority of 7 U.S.C. 1621 note, as amended, remove 7 CFR part 1291.

**Erin Morris,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2021-15780 Filed 7-23-21; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Parts 1, 61, 101, and 107**

[Docket No.: FAA-2020-1067; Amdt. No.: 1-74A]

RIN 2120-AL43

**Removal of the Special Rule for Model Aircraft; Correction**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule; correction.

**SUMMARY:** The FAA is correcting a final rule published on December 11, 2020. In that final rule, which became effective on the date of publication, the FAA removed the regulations codifying the Special Rule for Model Aircraft as a result of a change in applicable law. The FAA inadvertently listed an incorrect amendment number for the final rule. This document corrects that error.

**DATES:** This correction is effective July 26, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Thea Dickerman, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: 202-267-2371; email: [thea.c.dickerman@faa.gov](mailto:thea.c.dickerman@faa.gov).

**SUPPLEMENTARY INFORMATION:** On December 11, 2020, the FAA published the Removal of the Special Rule for Model Aircraft final rule (85 FR 79823). After the rule was published, the FAA discovered it had listed Amdt. No. 1-73 for the changes to title 14 Code of Federal Regulations part 1, instead of Amdt. No. 1-74.

**Electronic Access and Filing**

A copy of the final rule may be viewed online at <http://www.regulations.gov> using the docket number listed above. A copy of this final rule will also be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at <http://www.ofr.gov> and the Government Publishing Office's website at <http://www.gpo.gov>.

**Good Cause for Adoption Without Prior Notice**

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Agency generally offers interested parties the opportunity to comment on proposed regulations and publish rules not less

than 30 days before their effective dates. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking or delay effective dates when the agency, for good cause, finds that the requirement is impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B) and (d)(3)). There is good cause to waive both of these requirements here as they are unnecessary, as this action merely makes a technical correction to the amendment number of a published final rule.

**Correction**

In FR Doc. 2020-26726 (85 FR 79823) published on December 11, 2020, the following correction is made:

1. On page 79823, in the second column, in the heading of the final rule, correct "Amdt. Nos. 1-73, 61-148, 101-10, 107-6" to read "Amdt. Nos. 1-74, 61-148, 101-10, 107-6".

Issued under authority provided by 49 U.S.C. 106(f) and 44809, in Washington, DC.

**Timothy R. Adams,**

*Acting Executive Director, Office of Rulemaking.*

[FR Doc. 2021-15839 Filed 7-23-21; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2019-0759; Product Identifier 2018-SW-075-AD; Amendment 39-21661; AD 2021-15-14]

RIN 2120-AA64

**Airworthiness Directives; Various Restricted Category Helicopters**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for various restricted category helicopters, originally manufactured by Bell Textron Inc. (Bell). This AD was prompted by multiple events involving failure of the tail boom attach structure including the bolts. This AD requires revising the existing Rotorcraft Flight Manual (RFM) for your helicopter to incorporate pre-flight checks; removing paint and sealant, and cleaning; repetitive inspections of structural components that attach the tail boom to the fuselage; and depending on the outcome of the inspections, repairing or replacing components, or re-bonding the

structure. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective August 30, 2021.

**ADDRESSES:** For service information identified in this final rule, contact: U.S. Army Materiel Command Logistics Data Analysis Center (USAMC LDAC), ATTN: Equipment Publication Control Officers (EPCOs), Building 3305, Redeye Road, Redstone Arsenal, AL 35898-7466; phone (256) 955-7716 or 1-866-211-3367; email [usarmy.redstone.ldac.mbx.logetm@mail.mil](mailto:usarmy.redstone.ldac.mbx.logetm@mail.mil); or at <https://enterprise.armyerp.army.mil>.

You may also contact the following, as applicable:

JJASPP Engineering Services, LLC, 511 Harmon Terrace, Arlington, TX 76010; phone: (817) 465-4495; website: [www.jjaspp.com](http://www.jjaspp.com).

Northwest Rotorcraft, LLC, 1000 85th Ave. SE, Olympia, WA 98501; phone: (360) 754-7200; website: [www.nwhelicopters.com](http://www.nwhelicopters.com).

Overseas Aircraft Support, Inc., P.O. Box 898, Lakeside, AZ 85929; phone (928) 368-6965; fax (928) 368-6962.

Richards Heavylift Helo, Inc., 1181 Osprey Nest Point, Orange Park, FL 32073.

Rotorcraft Development Corporation, P.O. Box 430, Corvallis, MT 59828; phone: (207) 329-2518; email: [administration@rotorcraftdevelopment.com](mailto:administration@rotorcraftdevelopment.com).

Southwest Florida Aviation International, Inc., 28000-A9 Airport Road, Bldg. 101, Punta Gorda, FL 33982-9587.

Tamarack Helicopters Inc, 2849 McIntyre Rd, Stevensville, MT 59870; phone: (406) 777-0144; website: [www.tamarackhelicopters.com](http://www.tamarackhelicopters.com).

WSH, LLC, 3255 S. Bodenbunrg LP, Palmer, AK 99645.

You may view the related service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110.

**Examining the AD Docket**

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0759; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for Docket Operations is U.S. Department of

Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:**

Richard R. Thomas, Aerospace Engineer, Denver ACO Branch, Compliance & Airworthiness Division, FAA, 26805 East 68th Ave., Room 214, Denver, CO 80249; phone: (303) 342-1080; fax: (303) 342-1088; email: [9-Denver-Aircraft-Cert@faa.gov](mailto:9-Denver-Aircraft-Cert@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Discussion of the NPRM**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Model EH-1H, EH-1X, HH-1H, HH-1N, UH-1D, UH-1M, UH-1N, and UH-1V helicopters operating under experimental airworthiness certificates; and restricted category type certificated Model HH-1K, TH-1F, TH-1L, UH-1A, UH-1B without Supplemental Type Certificate (STC) No. SR00026DE installed, UH-1E, UH-1F, UH-1H, UH-1L, and UH-1P helicopters.

The NPRM listed the type certificate holders for these restricted category models as Arrow Falcon Exporters Inc.; AST, Inc.; Bell; California Department of Forestry; Global Helicopter Technology, Inc.; Hagglund Helicopters, LLC; International Helicopters, Inc.; JJASPP Engineering Services, LLC; JTBAM, Inc.; Northwest Rotorcraft, LLC; Red Tail Flying Services, LLC; Richards Heavylift Helo, Inc.; Robinson Air Crane, Inc.; Rotorcraft Development Corporation; San Joaquin Helicopters; Smith Helicopters; Southwest Florida Aviation International, Inc.; Tamarack Helicopters, Inc., and West Coast Fabrications.

The NPRM published in the **Federal Register** on October 31, 2019 (84 FR 58341). The NPRM was prompted by a series of events involving failure of the tail boom attach structure on several restricted category military surplus helicopters.

In the NPRM, the FAA proposed to require revising the existing RFM for your helicopter to incorporate pre-flight checks; removing paint and sealant, and cleaning structural components that attach the tail boom to the fuselage; repetitive inspections of the cleaned structural components; repairing scratches, nicks, gouges, tears, and corrosion within allowable limits; replacing structural components with non-repairable damage, cracks, buckling, or distortion; removing loose, missing, or smoking rivets from service; re-bonding structures with dis-bonds; and removing loose bolts and self-

locking nuts from service and replacing them with new bolts and new self-locking nuts. The FAA is issuing this AD to prevent separation of the tail boom from the helicopter, and subsequent loss of control of the helicopter.

**Background of the NPRM**

In September 2013, a tail boom separated from a UH-1B helicopter engaged in logging operations, resulting in a fatal accident. The FAA notes that the National Transportation Safety Board (NTSB) Final Report for that accident identified the probable cause as fatigue failure of the upper two tail boom attach points, which resulted in the tail boom separating from the fuselage during logging operations.<sup>1</sup> The NTSB noted that poor maintenance throughout the helicopter's operational life contributed to the accident. In addition to this accident, the FAA is aware of two forced landings due to tail boom attach structure failures: One in May 2014 on a UH-1H helicopter engaged in construction operations, and one in August 2018 on a UH-1F helicopter engaged in firefighting operations. Each of the three events involved a failure of the upper left-hand (LH) tail boom attach fitting. The upper LH tail boom attach point is the most heavily loaded of the four tail boom attach points.

**Additional Background Information**

The FAA issued Special Airworthiness Information Bulletin (SAIB) SW-18-29 (SAIB SW-18-29) on October 1, 2018 to alert owners and operators of restricted category Bell Model HH-1K, UH-1A, UH-1B, UH-1E, UH-1F, UH-1H, UH-1L, UH-1P, TH-1F, and TH-1L helicopters to failure of the tail boom attach structure. SAIB SW-18-29 recommends adhering to the helicopter's Instructions for Continued Airworthiness, which includes a repetitive 100 hour time-in-service (TIS) inspection of the tail boom attach structure on both sides of the four attach points and recommends keeping the fittings on both sides of all four attach points, the cap angles running forward from the fuselage side fitting, and the longerons running aft from the tail boom side fitting, clean and free of paint and any non-faying sealant; and inspecting for cracks in the attach structure with a borescope.

<sup>1</sup> The NTSB Aviation Accident Final Report for NTSB accident number WPR13FA411 is available on the NTSB's website at <https://data.ntsb.gov/carol-reppen/api/Aviation/ReportMain/GenerateNewestReport/88058/pdf>, accessed July 1, 2021.

The FAA revised SAIB SW-18-29 to SAIB SW-18-29R1, dated February 19, 2019 (SAIB SW-18-29R1), to alert all owners and operators to clarified paint and sealant removal procedures and simplify the wording of recommendations to provide clarity.

**Actions Since the NPRM Was Issued**

Since the FAA issued the NPRM, the FAA determined it is necessary to add notes in the applicability to clarify that Southwest Florida Aviation International, Inc. Model SW204 and SW204HP helicopters are Model UH-1B helicopters, and Model SW205 helicopters are Model UH-1H helicopters. These notes have been added to clarify the Model SW204, SW204HP, and SW205 designations used by Southwest Florida Aviation International, Inc.

The FAA also made edits to clarify that an owner/operator (pilot) may perform the required checks and must enter compliance with the applicable paragraph of the AD into the helicopter maintenance records in accordance with 14 CFR 43.9(a)(1) through (4) and 91.417(a)(2)(v). A pilot may perform these checks because they involve only visual checks and can be performed equally well by a pilot or a mechanic. These checks are an exception to the FAA's standard maintenance regulations.

Also, the FAA has learned of military design improvements of the UH-1H over previous variants, and further analysis of these design improvements prompted extending the inspection intervals for the UH-1H and SW205 helicopters when compared to Model HH-1K, TH-1F, TH-1L, UH-1A, UH-1B without STC No. SR00026DE installed, UH-1E, UH-1F, UH-1L, and UH-1P helicopters.

Additionally, since the NPRM was issued, the type certificate held by San Joaquin Helicopters is now held by WSH, LLC, and the type certificate held by JTBAM INC., is now held by Overseas Aircraft Support, Inc. This final rule reflects these changes and updates the contact information to that of the new type certificate holders.

Since the NPRM was published, the FAA has also removed all helicopter models operating under experimental airworthiness certificates from this final rule. The FAA has chosen to minimize regulations on experimental aircraft that do not have an FAA type certificate because of the level of the safety risk on the individual helicopter.

Further, since the NPRM was published, the FAA has removed the wording, "39-inch extended landing gear installed per STC SR01742NY"

from Figure (1) of this AD and from the required actions paragraph, because other STCs may also extend the gear. The FAA also revised the required actions paragraph to state “retorque” instead of “retighten” regarding any replaced bolt, and revised the phrase “existing maintenance manual” to instead read “existing maintenance instructions.” The FAA updated “attach” and “attachment” wording throughout the final rule as applicable.

The **ADDRESSES** paragraph has been revised to add contact information for Army Publishing Directorate and to remove contact information for AST, Inc., and Robinson Air Crane Inc.

Finally, as mentioned in the NPRM, the FAA still plans to conduct additional rulemaking to address Model UH-1B helicopters with STC No. SR00026DE installed.

#### **Discussion of Final Airworthiness Directive Comments**

After the NPRM was published, the FAA received comments from four commenters. The following presents the comments received on the NPRM and the FAA’s response to the comments.

#### **Support for the NPRM**

Aircraft Structural Repair, Inc., supported the NPRM.

#### **Comments Requesting More Information**

An individual commenter requested the FAA provide a list of active short fuselage models and expressed concern about availability of replacement parts.

The FAA estimates the U.S fleet of short fuselage models at 75 helicopters based on data provided by Bell and a review of FAA aircraft registration records. Specific short fuselage models included in this estimate are HH-1K, SW204, SW204HP, TH-1F, TH-1L, UH-1A, UH-1B without STC No. SR00026DE installed, UH-1E, UH-1F, UH-1L, and UH-1P helicopters. It is possible spare parts may not be readily available to replace parts that fail the inspection requirements of this AD; however, the FAA cannot base its AD action on whether spare parts are readily available or available at all. While every effort is made to avoid grounding aircraft, the FAA must address the unsafe condition.

An individual commenter requested the FAA provide information on whether a similar AD is being considered for Bell Model 204B helicopters.

The FAA is reviewing data to determine if this unsafe condition exists on additional helicopter models and

may consider additional rulemaking if necessary.

One commenter asked if the forced landings cited in SAIB SW-18-29R1 involved UH-1H helicopters and if these helicopters had the following STCs installed: SR01196LA, SR00929SE, SR01470SE, or SR02051LA. The commenter stated these STCs add extra horsepower and tail rotor authority. The commenter requested information on whether a combination of these STCs allow the tail rotor control authority to exceed the structural limitations of the tail boom attach fittings in response to sharp tail rotor control inputs.

One of the helicopters forced to land as described in SAIB SW-18-29R1 was a UH-1H helicopter. Another helicopter was a UH-1F, which is a variant of the UH-1B. The UH-1H had all four of the mentioned STCs installed at the time of the forced landing. The data reviewed by the FAA indicates the cause of the failure mode is fatigue. These STCs alone or in combination may increase tail boom loads but those load increases would only marginally increase the rate at which the tail boom attach structure fatigues. The inspection intervals mandated in this AD take into account this marginal increase in the rate of fatigue. The FAA is not aware of any data that the occasional increased loads associated with these STCs would lead directly to an exceedance of structural margins in the absence of fatigue.

#### **Request for the FAA To Change the Applicability of the AD**

An individual commenter requested the FAA remove Model HH-1N and UH-1N helicopters from the applicability paragraph of this AD stating these models have “a completely different tail boom longeron and attach fitting.”

The FAA agrees these models have a different tail boom attach structure than the other models listed in the applicability. These models have been removed from this AD.

Northwest Helicopters requested the FAA change the applicability to remove all Model UH-1 series helicopters operating under experimental exhibition (EE) airworthiness certificates and requested the FAA limit the applicability to those models operating under restricted category “repetitive heavy lift operations” or those having more than 20 cycles per hour. Northwest Helicopters states it is unaware of any tail boom attach point failure on any EE Model UH-1H helicopters.

The FAA agrees with the request to remove helicopters with an

experimental category airworthiness certificate from the applicability. All helicopters with an experimental category airworthiness certificate have been removed from the applicability of this AD. The FAA has chosen to minimize regulations on experimental aircraft that do not have an FAA type certificate. Nonetheless, the FAA recommends that operators of Model UH-1 series helicopters that are listed in the applicability and do not have a type certificate comply with this AD. The FAA disagrees with limiting the applicability to those models operating under restricted category “repetitive heavy lift operations” or those having more than 20 cycles per hour. The FAA is not aware of any data indicating that tail boom attachment failures only occur on helicopters engaging in repetitive heavy lift operations or those having more than 20 cycles per hour.

#### **Request for the FAA To Change the Related Service Information Section of the AD**

One commenter requested the FAA add Bell Information Letter, GEN-18-138, Revision A, dated August 9, 2018 (GEN-18-138), to this AD when discussing replacement of tail boom attaching bolts. The commenter explained GEN-18-138 notifies owners and operators that Bell recently superseded self-locking nuts part number (P/N) MS21042.

The FAA partially agrees. The FAA agrees that Bell superseded the original series of self-locking nuts on Model HH-1K, SW204, SW204HP, TH-1F, TH-1L, UH-1A, UH-1B without STC No. SR00026DE installed, UH-1E, UH-1F, UH-1L, and UH-1P helicopters according to information provided by Bell to the FAA. Self-locking nut P/N NAS9926-7L supersedes the original self-locking nut P/N NAS679A7 for the upper LH attach point and self-locking nut P/N NAS679A7 supersedes the original self-locking nut P/N NAS679A6 for the other three attach points. The required actions section of this AD has been revised to require the installation of self-locking nut P/N NAS9926-7L or P/N NAS9926-6L whenever an attach bolt is replaced. The FAA disagrees that GEN-18-138 addresses the self-locking nuts on helicopter models affected by this AD. The original self-locking nuts mentioned in GEN-18-138 do not include the original self-locking nuts on the helicopter models affected by this AD.

### **Request for the FAA To Change the Requirement To Use a Borescope for Inspection**

One commenter requested that the FAA limit the requirement to use a borescope for inspection to certain helicopters models with baggage compartments.

The FAA disagrees. The FAA inspected a Model UH-1H helicopter without a baggage compartment and determined that while all of the fuselage side attach structure is visible and within arm's reach, the tail boom side attach structure is not. Furthermore, due to the equipment in the fuselage side oil cooler bay and the confined space in the tail boom, accessing the tail boom side structure is difficult. Also, the upper right hand tail boom side attach structure is located behind a tail rotor pitch control rod. These factors make it difficult to perform a thorough inspection with only a mirror and magnification.

### **Request for the FAA to Change the Compliance Time**

Northwest Helicopters requested the FAA adjust the inspection intervals to correlate with existing AD inspection intervals to simplify the maintenance program for restricted category helicopters other than "repetitive heavy lift" Model UH-1 series helicopters. Northwest Helicopters stated a current AD requires inspection of the main rotor blades for cracks before further flight and every 14 days or 25 hours TIS, whichever occurs first. Northwest Helicopters stated that adopting the same intervals would allow both ADs to be completed at the same time to provide convenience.

The FAA disagrees with the request to change the compliance time for inspections required by this final rule to be consistent with the compliance times for inspections required by AD 2018-02-07, Amendment 39-19160 (83 FR 2361, January 17, 2018) (AD 2018-02-07). AD 2018-02-07 requires an initial inspection within 25 hours TIS or 2 weeks, whichever occurs first. Thereafter, AD 2018-02-07 requires repetitive inspections within 25 hours TIS or 2 weeks, whichever occurs first. This final rule requires an initial inspection within 25 hours TIS, without a calendar time requirement. Thereafter, this final rule requires repetitive inspections for certain helicopters within 25 hours TIS. Owners or operators may choose to perform the inspections required by this AD at 2 week intervals provided the inspections occur within the 25 hours TIS required by this AD.

### **Request for the FAA To Approve an Alternative Method of Compliance (AMOC) to the NPRM**

One individual stated an intent to submit several UH-1H modifications as an AMOC explaining the modifications are less likely to fail than the original structure.

The FAA agrees that the public may submit AMOC requests to the FAA in accordance with 14 CFR 39.19.

One individual requested that the FAA consider the installation of a modified upper LH fitting tail boom attach fitting on various model helicopters per U.S. Army "Modification Work Order (MWO 55-1520-211-40/1)" as an AMOC, stating the modified attach fitting is less likely to fail than the original fitting and no reported failures were noted for tail booms modified per MWO 55-1520211-40/1. A second individual questioned whether MWO 55-1520-211-40/1 would be considered as an AMOC.

The FAA disagrees that an upper LH fitting modified in accordance with MWO 55-1520-211-40/1 addresses this unsafe condition. The FAA reviewed Letter Report, Product Improvement Test of UH-1B Tail Boom Fitting, RDT&E Project No. None, USATECOM Project No. 4-5-0101-04, dated June 29, 1966, which contains an evaluation of MWO 55-1520-211-40/1. The FAA determined that the average total cycles accumulated on UH-1B helicopters affected by this AD substantially exceeds the Army evaluation test cycles. Therefore, the FAA concluded MWO 55-1520-211-40/1 does not adequately address the unsafe condition.

### **Request for the FAA To Withdraw the NPRM**

An individual commenter requested the FAA withdraw the NPRM. The commenter explained that issuing this AD would add an unnecessary burden to operators with a negligible increase in safety and the AD is unnecessary based on the series of accidents and incidents discussed in the NPRM. The commenter stated helicopters that are operated within their operating limits and properly maintained are unlikely to experience an inflight failure before cracks are detected because of existing inspection guidance. The commenter also stated that in the two accidents cited by the FAA, the helicopter was operated in an area not conducive to proper maintenance and was engaged in logging operations, which the commenter asserts are known for exceeding the helicopter's torque and weight limitations.

The FAA disagrees with the request to withdraw the NPRM. The FAA has

concluded the existing maintenance instructions lack sufficient detail to minimize the risk of an in-flight failure of the tail boom attach structure. Further, the FAA finds the need to mandate inspections through issuance of an AD to correct the unsafe condition identified in this final rule.

### **Conclusion**

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously. These changes are consistent with the intent of the proposals in the NPRM. The FAA also determined that these changes will neither increase the economic burden on any operator nor increase the scope of this AD.

### **Related Service Information**

The FAA reviewed portions of the following related service information:

- Headquarters, Department of the Army, Aviation Unit and Intermediate Maintenance Instructions Model UH-1H/V/EH-1H/X Helicopters, Technical Manual TM 55-1520-210-23-1, Change 42, dated April 14, 2003. This service information contains tail boom hoisting/handling instructions; hard landing, tail rotor blade strike, and sudden stoppage due to compressor stall tail boom inspection requirements; tail boom removal and installation instructions including attach bolt installation and tightening instructions, tail boom attach fitting inspection instructions, tail boom and fuselage attach fitting bolt hole wear limits, allowable tail boom attach fitting damage and corrosion repair instructions; loose attach fitting fastener inspection and replacement instructions; tail boom attach fitting replacement instructions; classification of damage as negligible, repairable or requiring replacement for tail boom structure including rivets, fasteners, tail boom attach fittings, stringers, and longerons; tail boom structural material specifications; allowable area for damage repair of tail boom attach fittings; longeron damage limits and repair criteria; and stringer repair instructions.

- Headquarters, Department of the Army, Aviation Unit Maintenance and Aviation Intermediate Maintenance Manual for General Aircraft Maintenance (Sheet Metal Shop Practices) Volume 10, Technical Manual TM 1-1500-204-23-10, Change 3, dated August 20, 2004. This service information contains general information pertaining to the repair of aircraft structures, structural metals,

forming of replacement structure, rivets and riveting techniques, airframe sheet metal repair, and sandwich construction repair.

- Headquarters, Department of the Army, Rotorcraft Development Corporation, UH-1B Aircraft Preventive Maintenance Services, Technical Manual TM 55-1520-219-PMS, Change 7, dated August 9, 1976. This service information contains requirements to inspect the tail boom attach bolts for security and the fittings for cracks daily and every 25, 50, 75, and 100 flight hours; and to inspect the tail boom interior structure and longerons for damage, cracks, and corrosion every 100 flight hours.

- Headquarters, Department of the Army, UH-1B DS and GS Maintenance Manual, Technical Manual TM 55-1520-219-34, Change 9, dated June 5, 1972. This service information contains instructions to remove and install the tail boom; attach bolt exposed thread limits; attach bolt tightening instructions with instructions for manufacturing a special torque wrench extension; allowable tail boom attach fitting hole diameters; damage classifications for tail boom skin, stringers and longerons as negligible, repairable by patching, repairable by insertion, or damage necessitating replacement; and instructions for field manufacture of P/N 204-030-800-443, Tail Boom Assembly Cover.

- Headquarters, Department of the Army, UH-1H/V and EH-1H/X Aircraft Phased Maintenance Checklist, Technical Manual TM 55-1520-210-PM, Change 22, dated May 8, 2002. This service information contains phased inspection requirements for the tail boom interior and fuselage heater compartment to check for damage, cracks, and corrosion.

- Headquarters, Department of the Army, UH-1H/V and EH-1H/X Aircraft Preventative Maintenance Daily Inspection Checklist, Technical Manual TM 55-1520-210-PMD, Change 11, dated April 11, 2003. This service information contains preventative daily maintenance instructions to be accomplished prior to the first flight of the day to inspect for loose or missing rivets, the tail boom attachment bolts for security, and tail boom attachment fittings and longerons up to 12 inches from the fittings for cracks.

- U.S. Army Aviation and Missile Command Depot Maintenance Work Requirement DMWR 55-1560-222, All H-1Series Tailboom Structural Assemblies, Change 6, dated June 18, 2002. This service information contains descriptions of the tail boom structure and guidance explaining tail boom

attach fitting structural loads; tail boom differences between helicopter models; required depot level modifications; tail boom structure isometric figures identifying the structural components; instructions to inspect the tail boom longerons for dents, cracks, holes, tears, corrosion, and distortion; longeron repair limits and repair instructions; instructions to inspect attach fittings for cracks and hole elongation; attach fitting repair limits and repair instructions; tail boom attach fitting deburr before bonding to longeron instructions; and a requirement to dye penetrant inspect the tail boom attach fittings.

For additional information about related service information, please see the published NPRM.

#### **Differences Between This AD and the Service Information**

This AD requires the pre-flight tail boom attachment check be performed with a flashlight and the initial and recurring inspections be performed with a bright light and borescope. The service information does not specify any items to assist with the required checks or inspections. This AD requires pushing on the tail boom while performing certain inspections. The service information does not. On the fuselage side, this AD requires paying particular attention to the fitting sections near the rivets closest to the attach bolt, and the cap angle rivets next to the fittings. On the tail boom side, this AD requires paying particular attention to the fitting sections near the rivets closest to the attach bolt. The service information does not single out these fitting sections. This AD requires removing any cracked components from service, while the service information allows stop drilling of certain cracks. This AD requires removing any loose attach bolts and their self-locking nuts from service and replacing them with new bolts and new self-locking nuts. The service information does not require replacement of any loose attach bolts.

#### **Costs of Compliance**

The FAA estimates that this AD affects 359 helicopters of U.S. registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at \$85 per work-hour.

Revising the existing RFM for your helicopter takes about 0.5 work-hour, for an estimated cost of \$43 per helicopter and \$15,437 for the U.S. fleet. The pre-flight check before each flight takes about 0.25 work-hour, for an estimated cost of \$21 per helicopter per check and \$7,539 for the U.S. fleet per check. The pre-flight check before first

flight of the day takes about 0.5 work-hour, for an estimated cost of \$43 per helicopter per check and \$15,437 for the U.S. fleet per check.

Removing excess paint and sealant, and cleaning all eight tail boom attach fittings takes about 5 work-hours and has a nominal materials cost, for an estimated cost of \$425 per helicopter per instance and \$152,575 for the U.S. fleet per instance.

Inspecting all four tail boom attach points for scratches, nicks, gouges, tears, corrosion, cracks, bond separation, loose, missing, and smoking rivets, buckling, distortion, attach bolt exposed threads, and attach bolt movement takes about 4 work-hours, for an estimated cost of \$340 per helicopter per inspection and \$122,060 for the U.S. fleet per inspection.

Inspecting only the upper LH tail boom attach point for scratches, nicks, gouges, tears, corrosion, cracks, bond separation, loose, missing, and smoking rivets, buckling, distortion, attach bolt exposed threads, and attach bolt movement takes about 0.5 work-hour, for an estimated cost of \$43 per helicopter per inspection.

The FAA cannot estimate the costs to do any allowable repair based on the results of the inspections and the FAA has no way of determining the number of helicopters that might need repair.

The FAA estimates the following costs to do any necessary replacements based on the results of the inspections. The FAA has no way of determining the number of helicopters that might need these replacements.

- Replacing a tail boom attach fitting takes about 33 work-hours and parts cost about \$1,500 for an estimated cost of \$4,305.

- Replacing a tail boom attach fitting, longeron, and doubler (longeron bond assembly) takes about 42 work-hours and parts cost about \$7,000 (rebuilt) or \$21,270 (new) for an estimated cost of \$10,570 (rebuilt) or \$24,840 (new parts).

- Replacing a fuselage attach fitting takes about 45 work-hours and parts cost about \$1,838 for an estimated cost of \$5,663.

- Replacing a fuselage cap angle takes about 42 work-hours and parts cost about \$1,827 for an estimated cost of \$5,397.

- Replacing an attach bolt and self-locking nut takes about 1 work-hour and parts cost about \$313 for an estimated cost of \$398.

#### **Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of

the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

The FAA determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**2021–15–14 Various Restricted Category Helicopters:** Amendment 39–21661; Docket No. FAA–2019–0759; Product Identifier 2018–SW–075–AD.

#### (a) Effective Date

This airworthiness directive (AD) is effective August 30, 2021.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to various restricted category helicopters originally manufactured by Bell Textron Inc., (Bell) certificated in any category, including but not limited to:

- (1) Rotorcraft Development Corporation Model HH–1K helicopters;
- (2) Robinson Air Crane Inc.; Rotorcraft Development Corporation; and Tamarack Helicopters, Inc., Model TH–1F helicopters;
- (3) Bell; Overseas Aircraft Support, Inc. (type certificate previously held by JTBAM, Inc.); and Rotorcraft Development Corporation Model TH–1L helicopters;
- (4) Richards Heavylift Helo, Inc., Model UH–1A helicopters;
- (5) International Helicopters, Inc.; Overseas Aircraft Support, Inc.; Red Tail Flying Services, LLC; Richards Heavylift Helo, Inc.; Rotorcraft Development Corporation; Southwest Florida Aviation International, Inc.; and WSH, LLC (type certificate previously held by San Joaquin Helicopters), Model UH–1B helicopters without Supplemental Type Certificate (STC) No. SR00026DE installed;

**Note 1 to paragraph (c)(5):** Helicopters with an SW204 or SW204HP designation are Southwest Florida Aviation International, Inc., Model UH–1B helicopters.

- (6) Bell; Overseas Aircraft Support, Inc.; Rotorcraft Development Corporation; Smith Helicopters; and West Coast Fabrications Model UH–1E helicopters;
- (7) AST, Inc.; California Department of Forestry; Robinson Air Crane, Inc.; Rotorcraft

Development Corporation; and Tamarack Helicopters, Inc., Model UH–1F helicopters;

- (8) Arrow Falcon Exporters Inc.; Global Helicopter Technology, Inc.; Hagglund Helicopters, LLC; JJASPP Engineering Services, LLC; Northwest Rotorcraft, LLC; Overseas Aircraft Support, Inc.; Richards Heavylift Helo, Inc.; Rotorcraft Development Corporation; Southwest Florida Aviation International, Inc.; and Tamarack Helicopters, Inc., Model UH–1H helicopters;

**Note 2 to paragraph (c)(8):** Helicopters with an SW205 designation are Southwest Florida Aviation International, Inc., Model UH–1H helicopters.

- (9) Bell; Overseas Aircraft Support, Inc.; and Rotorcraft Development Corporation Model UH–1L helicopters; and

- (10) Robinson Air Crane, Inc.; and Rotorcraft Development Corporation Model UH–1P helicopters.

#### (d) Subject

Joint Aircraft System Component (JASC): 5302, Rotorcraft Tail Boom.

#### (e) Unsafe Condition

This AD was prompted by multiple events involving failure of the tail boom attach structure, including the bolts. The FAA is issuing this AD to address fatigue cracking of tail boom attach fittings, cap angles, longerons, and bolts. The unsafe condition, if not addressed, could result in separation of the tail boom from the helicopter and subsequent loss of control of the helicopter.

#### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

#### (g) Required Actions

- (1) Before further flight, revise the limitations section of the existing Rotorcraft Flight Manual (RFM) for your helicopter by adding the information in Figure 1 to paragraph (g)(1) of this AD or by inserting a copy of this AD. The action required by this paragraph and the checks required by Figure 1 to paragraph (g)(1) of this AD may be done by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD by following 14 CFR 43.9 (a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

**BILLING CODE 4910–13–P**

### PRE-FLIGHT TAIL BOOM ATTACHMENT CHECK

(1) Before each flight, use two hands to push on the tail boom at the third vertical rivet line aft of the trailing edge of the elevator to check for looseness of the tail boom. Gradually apply and relieve pressure using body weight a minimum of three times in each of the following directions: inboard pushing from the left; inboard pushing from the right; and upward pushing from the bottom. If there is any looseness, further flight is prohibited until looseness is repaired and the helicopter is approved for return to service.

Note 1 to paragraph (1) of this check: This check is not required if the tail boom cannot be reached from ground level.

(2) Before the first flight of each day: with the oil cooler/baggage compartment door on the right hand side of the helicopter open to gain access to the interior of the tail boom, and with an additional person applying and relieving pressure as detailed in paragraph (1) and using a flashlight, first, check for upper left hand attach bolt movement by observing the torque stripe if present and attempting to rotate the bolt by hand, and second, check the upper left hand tail boom attach structure for any loose and missing rivets, and any cracks in the following areas: on the fuselage side, check the fitting and the cap angle running forward from the fitting for any cracks, paying particular attention to the fitting section near the rivets closest to the attach bolt and the cap angle rivets next to the fitting; and on the tail boom side, check the fitting and the longeron running aft from the fitting for any cracks, paying particular attention to the fitting section near the rivets closest to the attach bolt. If the attach bolt torque stripe is no longer aligned or the bolt rotates by hand, further flight is prohibited until the attach bolt and self-locking nut are removed from service, replaced with a new bolt and new self-locking nut, and the helicopter is approved for return to service. If there are any loose or missing rivets, or cracks, further flight is prohibited until loose and missing rivets, and cracked components are removed from service and the helicopter is approved for return to service.

Note 2 to paragraph (2) of this check: It is not required to push on the tail boom if it cannot be reached from ground level while checking for attach bolt movement, loose and missing rivets, and cracks.

Figure 1 to Paragraph (g)(1)

#### BILLING CODE 4910-13-C

(2) Within 25 hours time-in-service (TIS):  
(i) Open the oil cooler/baggage compartment door on the right hand side of

the helicopter to gain access to the interior of the tail boom.

(ii) Remove paint and stray sealant and clean the eight attach fittings (four on the tail boom side and four on the fuselage side).

Remove paint and stray sealant and clean the four cap angles, forward of the fuselage fittings, for at least 12 inches from the end of the fittings. Remove paint and stray sealant and clean the four longerons, aft of the tail

boom fittings, for at least 12 inches from the end of the fittings. It is only necessary to remove the topcoat. Primer may be left in place and edge and fillet sealant may be left in place. If any primer or edge or fillet sealant is removed, before further flight, reapply the removed primer and sealant.

**Note 3 to paragraph (g)(2)(ii):** On some models, the baggage compartment floor and net must be removed to gain access to the lower fuselage attach fittings and cap angles.

(iii) With an additional person pushing on the tail boom at the third vertical rivet line aft of the trailing edge of the elevator with both hands and gradually applying and relieving pressure using body weight a minimum of three times in each of the following directions: Inboard pushing from the left; inboard pushing from the right; and upward pushing from the bottom; and using a bright light and borescope, inspect each of the four tail boom attach structures for cracks, bond separation, and loose rivets. On the fuselage side, inspect the fittings and the cap angles running forward from the fittings, paying particular attention to the fitting sections near the rivets closest to the attach bolts and the cap angle rivets next to the fittings. On the tail boom side, inspect the fittings and the longerons running aft from the fittings, paying particular attention to the fitting sections near the rivets closest to the attach bolts. Without pushing on the tail boom, and using a bright light and borescope, inspect each of the four tail boom attach structures for scratches, nicks, gouges, tears, corrosion, buckling, and distortion, and for loose, missing, and smoking rivets. If there are any scratches, nicks, gouges, tears, or corrosion within allowable limits, before further flight, repair the affected components. If there are any scratches, nicks, gouges, tears, or corrosion that exceed allowable limits, or any cracks, buckling or distortion, or loose, missing, or smoking rivets, before further flight, remove the affected components from service. If there is any bond separation, before further flight, re-bond the affected components.

**Note 4 to paragraph (g)(2)(iii):** It is not required to push on the tail boom if it cannot be reached from ground level while inspecting for cracks, bond separation, and loose rivets.

(iv) Inspect each of the four tail boom attach bolts for exposed threads. If there is less than one full thread or more than three threads exposed, before further flight, remove the bolt and self-locking nut from service and replace with a new bolt and new self-locking nut. Self-locking nuts on Model HH-1K, SW204, SW204HP, TH-1F, TH-1L, UH-1A, UH-1B without STC No. SR00026DE installed, and Model UH-1E, UH-1F, UH-1L, and UH-1P helicopters must be replaced with self-locking nut part number (P/N) NAS9926-7L at the upper left-hand (LH) attach point and self-locking nut P/N NAS9926-6L at the other three attach points.

(v) Inspect each of the four tail boom attach bolts for movement by either applying the required installation torque in the tightening direction only, or by inspecting for torque stripe misalignment if present and attempting to rotate the bolt by hand. If a bolt is under-torqued, a torque stripe is misaligned, or a

bolt moves, before further flight, remove the bolt and self-locking nut from service and replace with a new bolt and new self-locking nut. Self-locking nuts on Model HH-1K, SW204, SW204HP, TH-1F, TH-1L, UH-1A, UH-1B without STC No. SR00026DE installed, UH-1E, UH-1F, UH-1L, and UH-1P helicopters must be replaced with self-locking nut P/N NAS9926-7L at the upper LH attach point and self-locking nut P/N NAS9926-6L at the other three attach points.

(vi) After the first flight following any bolt replacement as required by paragraph (g)(iv) or (v) of this AD, retorqued any replaced bolt by applying torque in accordance with the existing maintenance instructions for your helicopter in the tightening direction only and then apply a torque stripe on the bolt head.

(3) For Model HH-1K, TH-1F, TH-1L, UH-1A, UH-1B without STC No. SR00026DE installed, UH-1E, UH-1F, UH-1L, and UH-1P helicopters and Southwest Florida Aviation International, Inc. Model SW204 and SW204HP helicopters, at intervals not to exceed 25 hours TIS, perform the actions required by paragraphs (g)(2)(i) through (vi) of this AD, except you are only required to perform the actions on the upper LH tail boom attach structure including the bolt.

(4) For Model HH-1K, TH-1F, TH-1L, UH-1A, UH-1B without STC No. SR00026DE installed, UH-1E, UH-1F, UH-1L, and UH-1P helicopters and Southwest Florida Aviation International, Inc. Model SW204 and SW204HP helicopters, at intervals not to exceed 100 hours TIS, perform the actions required by paragraphs (g)(2)(i) through (vi) of this AD at all four tail boom attach points.

(5) For Model UH-1H helicopters and Southwest Florida Aviation International, Inc. Model SW205 helicopters, at intervals not to exceed 150 hours TIS, perform the actions required by paragraphs (g)(2)(i) through (vi) of this AD on all four tail boom attach points.

#### (h) Special Flight Permit

Special flight permits are prohibited.

#### (i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Denver ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

#### (j) Related Information

For more information about this AD, contact Richard R. Thomas, Aerospace Engineer, Denver ACO Branch, Compliance & Airworthiness Division, FAA, 26805 East 68th Ave., Room 214, Denver, CO 80249; phone: (303) 342-1080; fax: (303) 342-1088; email: 9-Denver-Aircraft-Cert@faa.gov.

Issued on July 18, 2021.

**Ross Landes,**

*Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021-15721 Filed 7-23-21; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2020-1100; Airspace Docket No. 20-AGL-1]

**RIN 2120-AA66**

### Amendment of V-9, V-63, V-100, V-158, V-171, and T-325; and Revocation of V-127 in the Vicinity of Rockford, IL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends VHF Omnidirectional Range (VOR) Federal airways V-9, V-63, V-100, V-158, and V-171; amends Area Navigation (RNAV) route T-325; and removes VOR Federal airway V-127 in the vicinity of Rockford, IL. The air traffic service (ATS) route modifications are necessary due to the planned decommissioning of the VOR portion of the Rockford, IL, VOR/Distance Measuring Equipment (VOR/DME) navigational aid (NAVAID). Except for RNAV route T-325, the Rockford VOR/DME NAVAID provides navigation guidance for portions of the affected routes listed above. The Rockford VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

**DATES:** Effective date 0901 UTC, October 7, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/). For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/).

[www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

**FOR FURTHER INFORMATION CONTACT:**

Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

**History**

The FAA published a notice of proposed rulemaking for Docket No. FAA-2020-1100 in the **Federal Register** (85 FR 81433; December 16, 2020), amending VOR Federal airways V-9, V-63, V-100, V-158, and V-171; amending RNAV route T-325; and removing VOR Federal airway V-127 in the vicinity of Rockford, IL. The proposed amendment and revocation actions were due to the planned decommissioning of the VOR portion of the Rockford, IL, VOR/DME NAVAID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) and RNAV T-routes are published in paragraph 6011 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be published subsequently in the Order.

**Availability and Summary of Documents for Incorporation by Reference**

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this

document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**Differences From the NPRM**

In the NPRM, the FAA proposed to amend RNAV route T-325 by removing the Terre Haute VOR/Tactical Air Navigation (VORTAC) and replacing it with the JIBKA, IN, waypoint (WP) and then extending the route northward from the JIBKA, IN, WP to the Oshkosh, WI, VORTAC. The proposed RNAV route T-325 description in the regulatory text section of the NPRM inadvertently listed the RENRO, KY, route point as a FIX, in error. The correct reference for the RENRO, KY, route point should have reflected it as a WP. As such, the proposed T-325 route description in the NPRM should have reflected the RENRO, KY, route point as a "WP" instead of "FIX." This RNAV route point correction to the T-325 description is included in this action.

**The Rule**

This action amends 14 CFR part 71 by modifying VOR Federal airways V-9, V-63, V-100, V-158, and V-171; modifying RNAV route T-325; and removing VOR Federal airway V-127. The planned decommissioning of the VOR portion of the Rockford, IL, VOR/DME has made this action necessary.

The VOR Federal airway changes are outlined below.

**V-9:** V-9 extends between the Leeville, LA, VORTAC and the Houghton, MI, VOR/DME. The airway segment overlying the Rockford, IL, VOR/DME between the Pontiac, IL, VOR/DME and the Janesville, WI, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

**V-63:** V-63 extends between the Razorback, AR, VORTAC and the Oshkosh, WI, VORTAC; and between the Wausau, WI, VOR/DME and the Houghton, MI, VOR/DME. That airspace at and above 10,000 feet MSL from 5 NM north to 46 NM north of Quincy, IL, when the Howard West MOA is active, is excluded. The airway segment overlying the Rockford, IL, VOR/DME between the Davenport, IA, VORTAC and the Janesville, WI, VOR/DME is removed. The unaffected portions of the existing airway remain as charted and the exclusion language remains unchanged.

**V-100:** V-100 extends between the Medicine Bow, WY, VOR/DME and the O'Neill, NE, VORTAC; and between the Fort Dodge, IA, VORTAC and the Litchfield, MI, VOR/DME. The airway

segment overlying the Rockford, IL, VOR/DME between the Dubuque, IA, VORTAC and the Northbrook, IL, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

**V-127:** V-127 extends between the Bradford, IL, VORTAC and the Rockford, IL, VOR/DME. The airway is removed in its entirety.

**V-158:** V-158 extends between the Mason City, IA, VORTAC and the intersection of the Polo, IL, VOR/DME 122° and the Rockford, IL, VOR/DME 169° radials (SHOOF fix). The airspace within R-3302 is excluded. The airway is retained by redefining the SHOOF fix as the intersection of the Polo, IL, VOR/DME 122° and Davenport, IA, VORTAC, 087° radials. The existing airway remains as charted and the exclusion language remains unchanged.

**V-171:** V-171 extends between the Lexington, KY, VOR/DME and the Rockford, IL, VOR/DME; and between the Nodine, MN, VORTAC and the Roseau, MN, VOR/DME. The airway segment between the Joliet, IL, VOR/DME and the Rockford, IL, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

The RNAV T-route changes are outlined below.

**T-325:** T-325 extends between the Bowling Green, KY, DME NAVAID and the Terre Haute, IN, VORTAC. The Terre Haute VORTAC route point is removed and replaced with the JIBKA, IN, WP located near the Terre Haute VORTAC, and the route is extended northward from the JIBKA, IN, WP to the Oshkosh, WI, VORTAC. The following points are added between the JIBKA WP and the Oshkosh VORTAC: CAPPY, IL, WP; SMARS, IL, WP; TRENM, IL, WP; START, IL, WP; GRIFT, IL, WP; DEBOW, WI, WP; LUNGS, WI, WP; and the HOMNY, WI, WP. The unaffected segments of the existing route remain as charted.

All radials in the VOR Federal airway descriptions below are stated in True degrees.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

**Regulatory Notices and Analyses**

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory

Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

The FAA has determined that this action of modifying VOR Federal airways V-9, V-63, V-100, V-158, and V-171; modifying RNAV route T-325; and removing VOR Federal airway V-127, due to the planned decommissioning of the VOR portion of the Rockford, IL, VOR/DME NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact

requiring further analysis. The FAA has therefore determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

#### Paragraph 6010(a) Domestic VOR Federal Airways.

\* \* \* \* \*

#### V-9 [Amended]

From Leeville, LA; McComb, MS; INT McComb 004° and Magnolia, MS, 194° radials; Magnolia; Sidon, MS; Marvell, AR; Gilmore, AR; Malden, MO; Farmington, MO; St. Louis, MO; Spinner, IL; to Pontiac, IL. From Janesville, WI; Madison, WI; Oshkosh, WI; Green Bay, WI; Iron Mountain, MI; to Houghton, MI.

\* \* \* \* \*

#### V-63 [Amended]

From Razorback, AR; Springfield, MO; Hallsville, MO; Quincy, IL; Burlington, IA; Moline, IL; to Davenport, IA. From Janesville, WI; Badger, WI; to Oshkosh, WI. From Wausau, WI; Rhinelander, WI; to Houghton, MI. Excluding that airspace at and above 10,000 feet MSL from 5 NM north to 46 NM north of Quincy, IL, when the Howard West MOA is active.

\* \* \* \* \*

#### V-100 [Amended]

From Medicine Bow, WY; Scottsbluff, NE; Alliance, NE; Ainsworth, NE; to O'Neill, NE. From Fort Dodge, IA; Waterloo, IA; to Dubuque, IA. From Northbrook, IL; INT Northbrook 095° and Keeler, MI, 271° radials; Keeler; to Litchfield, MI.

\* \* \* \* \*

#### V-127 [Removed]

\* \* \* \* \*

#### V-158 [Amended]

From Mason City, IA; INT Mason City 106° and Dubuque, IA, 293° radials; Dubuque; Polo, IL; to INT Polo 122° and Davenport, IA, 087° radials. The airspace within R-3302 is excluded.

\* \* \* \* \*

#### V-171 [Amended]

From Lexington, KY; INT Lexington 251° and Louisville, KY, 114° radials; Louisville; Terre Haute, IN; Danville, IL; Peotone, IL; INT Peotone 281° and Joliet, IL, 173° radials; to Joliet. From Nodine, MN; INT Nodine 298° and Farmington, MN, 124° radials; Farmington; Darwin, MN; Alexandria, MN; INT Alexandria 321° and Grand Forks, ND, 152° radials; Grand Forks; to Roseau, MN.

\* \* \* \* \*

#### Paragraph 6011 United States Area Navigation Routes.

\* \* \* \* \*

#### T-325 Bowling Green, KY (BWG) to Oshkosh, WI (OSH) [Amended]

Bowling Green, KY (BWG)	DME	(Lat. 36°55'43.47" N, long. 086°26'36.36" W)
RENRO, KY	WP	(Lat. 37°28'50.53" N, long. 086°39'19.25" W)
LOONE, KY	WP	(Lat. 37°44'14.43" N, long. 086°45'18.02" W)
APALO, IN	FIX	(Lat. 38°00'20.59" N, long. 086°51'35.27" W)
BUNKA, IN	FIX	(Lat. 39°04'57.32" N, long. 087°09'06.58" W)
JIBKA, IN	WP	(Lat. 39°30'08.93" N, long. 087°16'26.74" W)
CAPPY, IL	WP	(Lat. 40°00'06.00" N, long. 087°44'31.22" W)
SMARS, IL	WP	(Lat. 41°07'38.18" N, long. 088°51'38.22" W)
TRENM, IL	WP	(Lat. 41°17'24.93" N, long. 089°00'27.53" W)
START, IL	WP	(Lat. 41°45'24.83" N, long. 089°00'21.81" W)
GRIFT, IL	WP	(Lat. 42°17'28.14" N, long. 088°53'41.42" W)
DEBOW, WI	WP	(Lat. 42°44'08.30" N, long. 088°50'48.92" W)
LUNGS, WI	WP	(Lat. 43°02'43.66" N, long. 088°56'54.86" W)
HOMNY, WI	WP	(Lat. 43°31'02.22" N, long. 088°39'40.15" W)
Oshkosh, WI (OSH)	VORTAC	(Lat. 43°59'25.56" N, long. 088°33'21.36" W)

\* \* \* \* \*

Issued in Washington, DC, on July 22, 2021.

**George Gonzalez,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2021-15768 Filed 7-23-21; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2020-1147; Airspace Docket No. 20-ASO-30]

**RIN 2120-AA66**

### Amendment of Area Navigation (RNAV) Route Q-29; Northeastern United States

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends Area Navigation (RNAV) route Q-29 in the northeastern United States in support of the Northeast Corridor Atlantic Coast Route Project (NEC ACR) for improved efficiency of the National Airspace System (NAS) while reducing the dependency on ground based navigational systems.

**DATES:** Effective date 0901 UTC, October 7, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/). For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**FOR FURTHER INFORMATION CONTACT:** Sean Hook, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

#### SUPPLEMENTARY INFORMATION:

#### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it expands the availability of RNAV routes in the NAS, increases airspace capacity, and reduces complexity in high air traffic volume areas.

#### History

The FAA published a notice of proposed rulemaking for Docket No. FAA-2020-1147 in the **Federal Register** (85 FR 85562; December 29, 2020), amending RNAV route Q-29 in the northeastern United States. The Q-route amendment supports the strategy to transition the NAS from a ground-based navigation aid and radar-based system to a satellite-based PBN system. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

United States area navigation routes are published in paragraph 2006 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The RNAV routes listed in this document will be published subsequently in the Order.

#### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020 and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### Differences From the Proposal

In the NPRM, the FAA proposed to amend Q-29, in the northeastern United States to support the Northeast Corridor Atlantic Coast Route Project. In the proposal, the FAA incorrectly stated the name of the WP to be moved as DUNOM; the correct reference to the

WP moving 1.26 NM east to the United States/Canada border is DUNMO, ME, WP.

Additionally, the FAA referenced the wrong paragraph where United States area navigation routes are published. The correct reference is paragraph 2006 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020,

#### The Rule

This action amends 14 CFR part 71 by modifying Q-29, in the northeastern United States to support the Northeast Corridor Atlantic Coast Route Project.

Q-29: Q-29 extends between the HARES, LA, WP and the DUVOK, Canada, WP. The FAA removed the Memphis VORTAC and replaced it with the MEMFS, TN, WP while moving the DUNMO, ME, WP 1.26 NM east to the United States/Canada border and removing the DUVOK, Canada, WP. Q-29 extends between the HARES, LA, WP and the DUNMO, ME, WP.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

#### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

The FAA has determined that this airspace action of amending 14 CFR part 71 by modifying RNAV route Q-29 in the northeastern United States to support the NEC ACR for improved efficiency of the NAS, while reducing the dependency on ground based navigational systems, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and

Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no

extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020 and effective September 15, 2020, is amended as follows:

*Paragraph 2006 United States Area Navigation Routes.*

\* \* \* \* \*

#### Q-29 HARES, LA to DUNMO, ME

HARES, LA	WP	(Lat. 33°00′00.00″ N, long. 091°44′00.00″ W)
BAKRE, MS	WP	(Lat. 33°53′45.85″ N, long. 090°58′04.75″ W)
MEMFS, TN	WP	(Lat. 35°00′54.62″ N, long. 089°58′58.87″ W)
OMDUE, TN	WP	(Lat. 36°07′47.32″ N, long. 088°58′11.49″ W)
SIDAE, KY	WP	(Lat. 37°20′00.00″ N, long. 087°50′00.00″ W)
CREEP, OH	FIX	(Lat. 39°55′15.28″ N, long. 084°18′31.41″ W)
KLYNE, OH	WP	(Lat. 40°41′54.46″ N, long. 083°18′44.19″ W)
DUTSH, OH	WP	(Lat. 41°08′26.35″ N, long. 082°33′12.68″ W)
WWSHR, OH	WP	(Lat. 41°20′34.09″ N, long. 082°03′05.76″ W)
DORET, OH	FIX	(Lat. 41°48′05.90″ N, long. 080°35′04.64″ W)
Jamestown, NY	(JHW) VOR/ DME	(Lat. 42°11′18.99″ N, long. 079°07′16.70″ W)
HANKK, NY	FIX	(Lat. 42°53′41.82″ N, long. 077°09′15.21″ W)
GONZZ, NY	WP	(Lat. 43°05′22.00″ N, long. 076°41′12.00″ W)
KRAZZ, NY	WP	(Lat. 43°25′00.00″ N, long. 074°18′00.00″ W)
NIPPY, NY	FIX	(Lat. 43°41′23.08″ N, long. 073°58′06.74″ W)
CABCI, VT	WP	(Lat. 44°49′19.94″ N, long. 071°42′55.14″ W)
EBONY, ME	FIX	(Lat. 44°54′08.68″ N, long. 067°09′23.65″ W)
DUNMO, ME	WP	(Lat. 44°54′09.29″ N, long. 066°58′13.68″ W)

\* \* \* \* \*

Issued in Washington, DC, on July 19, 2021.

**George Gonzalez,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2021–15784 Filed 7–23–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2021–0250; Airspace Docket No. 20–AEA–22]

**RIN 2120–AA66**

#### Establishment and Amendment of Area Navigation Routes, Northeast Corridor Atlantic Coast Routes; Northeastern United States

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies three existing high altitude area navigation (RNAV) routes (Q-routes), and establishes one new Q-route, in support of the Northeast Corridor Atlantic Coast Route (NEC ACR) Project. This action improves the efficiency of the National Airspace System (NAS) by expanding the availability of RNAV routing and reducing the dependency on ground-based navigational systems.

**DATES:** Effective date 0901 UTC, October 7, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/). For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that

section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the VOR Federal airway route structure in the northeastern United States to maintain the efficient flow of air traffic.

### History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2021–0250 in the **Federal Register** (86 FR 21669; April 23, 2021), to amend three existing Q-routes, and establish 1 new Q-route, in the northeastern United States to support the Northeast Corridor Atlantic Coast Route project. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

United States area navigation routes are published in paragraph 2006 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document will be subsequently published in the Order.

### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### The Rule

This action amends 14 CFR part 71 by amending three existing Q-routes, and establishing one new Q-route in the northeastern United States to support the Northeast Corridor Atlantic Coast Route project. The new route is designated Q–419, and amendments made to the descriptions of Q–22, Q–54, and Q–64.

The Q-route amendments are as follows:

Q–22: Q–22 extends between the GUSTI, LA, Fix, and the BEARI, VA, WP. This action further extends Q–22 northeast from the BEARI, VA, WP to the FOXWD, CT, WP. The following points are inserted between the BEARI, VA, and the FOXWD, CT, WPs: UMBRE, VA, WP; BBOBO, VA, WP; SHTGN, MD, WP; SYFER, MD, WP; DANGR, MD, WP;

PYTHN, DE, WP; BESSI, NJ, Fix; JOEPO, NJ, WP; BRAND, NJ, Fix; Robbinsville, NJ (RBV), VORTAC; LAURN, NY, Fix; LLUND, NY, Fix; and BAYYS, CT, Fix. As amended, Q–22 extends between GUSTI, LA and FOXWD, CT. This provides RNAV routing between Louisiana and the New England area.

Q–54: Q–54 extends between the Greenwood, SC (GRD), VORTAC, and the NUTZE, NC, WP. This action removes the Greenwood VORTAC and adds the HRTWL, SC, WP as a new end point for the route. In addition, the ASHEL, NC, WP is added between the existing RAANE, NC, and the NUTZE, NC, WPs.

Q–64: Q–64 extends between the CATLN, AL, Fix, and the Tar River, NC (TYI), VORTAC. This action removes the Greenwood, SC (GRD), VORTAC from the route and adds the HRTWL, SC, WP between the FIGEY, GA and the DARRL, SC, Fixes. The DADDS, NC, WP and the MARCL, NC, WPs are added between the existing IDDA, NC, WP, and the Tar River VORTAC. Additionally, the route is extended northeast from the Tar River VORTAC, through the GUILD, NC, WP to the SAWED, VA, Fix.

The new Q-route is as follows:

Q–419: Q–419 extends between the BROSS, MD, Fix, and the Deer Park, NY (DPK), VOR/DME.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

The FAA has determined that this airspace action of modifying three existing high altitude area navigation

(RNAV) routes (Q-routes), and establishing one new Q-route, in support of the Northeast Corridor Atlantic Coast Route (NEC ACR) Project, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020 and effective September 15, 2020, is amended as follows:

*Paragraph 2006 United States Area Navigation Routes.*

\* \* \* \* \*

**Q-22 GUSTI, LA to FOXWD, CT [Amended]**

GUSTI, LA	FIX	(Lat. 29°58'15.34" N, long. 092°54'35.29" W)
OYSTY, LA	FIX	(Lat. 30°28'15.21" N, long. 090°11'49.14" W)
ACMES, AL	WP	(Lat. 30°55'27.13" N, long. 088°22'10.82" W)
CATLN, AL	FIX	(Lat. 31°18'26.03" N, long. 087°34'47.75" W)
TWOUP, GA	WP	(Lat. 33°53'45.39" N, long. 083°49'08.39" W)
Spartanburg, SC (SPA)	VORTAC	(Lat. 35°02'01.05" N, long. 081°55'37.24" W)
NYBLK, NC	WP	(Lat. 35°34'34.99" N, long. 081°02'33.96" W)
MASHI, NC	WP	(Lat. 35°58'17.90" N, long. 080°23'04.71" W)
KIDDO, NC	WP	(Lat. 36°10'34.90" N, long. 080°02'23.69" W)
OMENS, VA	WP	(Lat. 36°49'29.00" N, long. 078°55'29.78" W)
BEARI, VA	WP	(Lat. 37°12'01.97" N, long. 078°15'23.85" W)
UMBRE, VA	WP	(Lat. 37°23'38.72" N, long. 077°49'09.50" W)
BBOBO, VA	WP	(Lat. 37°41'33.79" N, long. 077°07'57.59" W)
SHTGN, MD	WP	(Lat. 38°14'45.29" N, long. 076°44'52.23" W)
SYFER, MD	WP	(Lat. 38°25'19.31" N, long. 076°33'26.82" W)
DANGR, MD	WP	(Lat. 38°57'36.25" N, long. 075°58'30.85" W)
PYTHN, DE	WP	(Lat. 39°18'06.97" N, long. 075°33'59.66" W)
BESSI, NJ	FIX	(Lat. 39°40'34.84" N, long. 075°06'44.53" W)
JOEPO, NJ	WP	(Lat. 39°54'22.11" N, long. 074°52'17.73" W)
BRAND, NJ	FIX	(Lat. 40°02'06.28" N, long. 074°44'09.50" W)
Robbinsville, NJ (RBV)	VORTAC	(Lat. 40°12'08.65" N, long. 074°29'42.09" W)
LAURN, NY	FIX	(Lat. 40°33'05.80" N, long. 074°07'13.67" W)
LLUND, NY	FIX	(Lat. 40°51'45.04" N, long. 073°46'57.30" W)
BAYYS, CT	FIX	(Lat. 41°17'21.27" N, long. 072°58'16.73" W)
FOXWD, CT	WP	(Lat. 41°48'21.66" N, long. 071°48'07.03" W)

\* \* \* \* \*

**Q-54 HRTWL SC to NUTZE, NC [Amended]**

HRTWL, SC	WP	(Lat. 34°15'05.33" N, long. 082°09'15.55:W.)
NYLLA, SC	WP	(Lat. 34°34'38.94" N, long. 081°17'00.48" W)
CHYPS, NC	WP	(Lat. 34°53'17.92" N, long. 080°25'57.04" W)
AHOEY, NC	WP	(Lat. 35°00'36.28" N, long. 080°05'55.93" W)
RAANE, NC	WP	(Lat. 35°09'21.97" N, long. 079°41'33.90" W)
ASHEL, NC	WP	(Lat. 35°25'43.32" N, long. 078°54'48.07" W)
NUTZE, NC	WP	(Lat. 35°50'40.43" N, long. 077°40'56.72" W)

\* \* \* \* \*

**Q-64 CATLN, AL to SAWED, VA [Amended]**

CATLN, AL	FIX	(Lat. 31°18'26.03" N, long. 087°34'47.75" W)
FIGEY, GA	WP	(Lat. 33°52'26.94" N, long. 082°52'22.76" W)
HRTWL, SC	WP	(Lat. 34°15'05.33" N, long. 082°09'15.55:W.)
DARRL, SC	FIX	(Lat. 34°47'49.47" N, long. 081°03'21.62" W)
IDDA, NC	WP	(Lat. 35°11'05.10" N, long. 079°59'30.69" W)
DADDS, NC	WP	(Lat. 35°36'30.35" N, long. 078°47'20.70" W)
MARCL, NC	WP	(Lat. 35°43'54.41" N, long. 078°25'46.57" W)
Tar River, NC (TYI)	VORTAC	(Lat. 35°58'36.20" N, long. 077°42'13.43" W)
GUILD, NC	WP	(Lat. 36°18'49.56" N, long. 077°14'59.96" W)
SAWED, VA	FIX	(Lat. 37°32'00.73" N, long. 075°51'29.10" W)

\* \* \* \* \*

**Q-419 BROSS, MD to Deer Park, NY (DPK) [New]**

BROSS, MD	FIX	(Lat. 39°11'28.40" N, long. 075°52'49.88" W)
MYFOO, DE	WP	(Lat. 39°26'10.15" N, long. 075°36'44.70" W)
NACYN, NJ	WP	(Lat. 39°36'49.19" N, long. 075°24'59.30" W)
BSERK, NJ	WP	(Lat. 39°47'27.01" N, long. 075°13'10.29" W)
HULKK, NJ	WP	(Lat. 39°59'53.04" N, long. 074°58'52.52" W)
Robbinsville, NJ (RBV)	VORTAC	(Lat. 40°12'08.65" N, long. 074°29'42.09" W)
LAURN, NY	FIX	(Lat. 40°33'05.80" N, long. 074°07'13.67" W)
Kennedy, NY (JFK)	VOR/DME	(Lat. 40°37'58.40" N, long. 073°46'17.00" W)
Deer Park, NY (DPK)	VOR/DME	(Lat. 40°47'30.30" N, long. 073°18'13.17" W)

\* \* \* \* \*

Issued in Washington, DC, on July 19, 2021.

**George Gonzalez,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2021–15777 Filed 7–23–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2021–0081; Airspace Docket No. 20–AAL–61]

RIN 2120–AA66

#### Establishment of Class E Airspace; Craig, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace extending upward from 700 feet above the surface of the earth at El Capitan Lodge, Craig, AK. This action accommodates a new area navigation (RNAV) procedure and ensures the safety and management of instrument flight rule (IFR) operations within the National Airspace System.

**DATES:** Effective 0901 UTC, October 7, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**FOR FURTHER INFORMATION CONTACT:** Richard Roberts, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231–2245.

**SUPPLEMENTARY INFORMATION:**

#### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace extending upward from 700 feet above the surface of the earth to support IFR operations at El Capitan Lodge, Craig, AK.

#### History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 14295; March 15, 2021) for Docket No. FAA–2021–0081 to establish Class E airspace at El Capitan Lodge, Craig, AK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA, none were received.

Class E5 airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

#### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### The Rule

This amendment to 14 CFR part 71 establishes Class E airspace, extending upward from 700 feet above the surface, at El Capitan Lodge, Craig, AK. This action is associated with a seaplane base, and therefore, the Class E airspace is established extending upward from 700 feet above ground level (AGL) within a 2-mile radius of the airport's sea lane versus the Lodge. In addition, airspace extending upward from 700

feet AGL is established 1.9 miles each side of the 353° bearing from a point-in-space, coordinates lat. 55°58'6" N, long. 133°15'59" W, extending from the 2-mile radius to 8.5 miles north. This area provides controlled airspace for aircraft as they descend below 1,500 feet AGL. The airspace extending upward from 700 feet also includes the area 2 miles each side of the 232° bearing from the point-in-space extending from the 2-mile radius to 4 miles southwest. This area would provide controlled airspace for the missed approach procedure.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

#### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial, and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### AAL AK E5 Craig, AK [NEW]

El Capitan Lodge, AK

(Lat. 55°57'31" N, long. 133°15'12" W)

El Capitan Lodge, Point In Space Coordinates  
(Lat. 55°58'6" N, long. 133°15'59" W)

That airspace extending upward from 700 feet above the surface within a 2-mile radius from a point in space lat. 55°58'6" N, long. 133°15'59" W, and that airspace 1.9 miles each side of the 353° bearing from the point in space extending from the 2-mile radius to 8.5 miles north from the point in space and that airspace 2 miles each side of the 232° bearing from the point in space extending from the 2-mile radius to 4 miles southwest from the point in space.

Issued in Des Moines, Washington, on July 19, 2021.

**Maria A. Aviles,**

*Acting Group Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2021–15719 Filed 7–23–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2020–1081; Airspace Docket No. 20–AEA–19]

**RIN 2120–AA66**

#### Establishment of Area Navigation (RNAV) Route Q–437; Northeastern United States

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action establishes Area Navigation (RNAV) route Q–437 in the northeastern United States in support of the Northeast Corridor Atlantic Coast

Route Project (NEC ACR) for improve efficiency of the National Airspace System (NAS) while reducing the dependency on ground based navigational systems.

**DATES:** Effective date 0901 UTC, October 7, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/). For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

#### FOR FURTHER INFORMATION CONTACT:

Sean Hook, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the VOR Federal airway route structure in the eastern United States to maintain the efficient flow of air traffic.

##### History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2020–1081 in the **Federal Register** (85 FR 79448; December 10, 2020), establishing Area Navigation (RNAV) route Q–437 in northeastern United States to support the NEC ACR. This

provides for the safe and efficient use of navigable airspace within the NAS while reducing NAVAID dependencies throughout the NAS as part of the FAA VOR Minimum Operation Network program. Additionally, the Q-route would support the strategy to transition the NAS from a ground-based navigation aid, and radar-based system, to a satellite-based PBN system. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

United States area navigation routes are published in paragraph 2006 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document will be subsequently published in the Order.

#### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### The Rule

This action amends 14 CFR part 71 by establishing RNAV route Q–437 in the northeastern United States in support of the NEC ACR for improve efficiency of the NAS while reducing the dependency on ground based navigational systems.

**Q–437:** Q–437 will extend between the VILLS, NJ, fix, and the SLANG, VT, waypoint (WP).

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

#### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine

matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

The FAA has determined that this airspace action of establishing RNAV Q-437 qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas;

Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### Q-437 VILLS, NJ to SLANG, VT [New]

VILLS, NJ	FIX	(Lat. 39°18'03.87" N, long. 075°06'37.89" W)
DITCH, NJ	FIX	(Lat. 39°47'37.86" N, long. 074°42'59.88" W)
LUIGI, NJ	FIX	(Lat. 40°04'09.65" N, long. 074°26'40.32" W)
HNNAH, NJ	FIX	(Lat. 40°28'12.73" N, long. 074°02'36.62" W)
LLUND, NY	FIX	(Lat. 40°51'45.04" N, long. 073°46'57.30" W)
BIZEX, NY	WP	(Lat. 41°17'02.86" N, long. 073°34'50.20" W)
BINGS, NY	WP	(Lat. 42°00'33.26" N, long. 073°30'01.81" W)
WARUV, NY	FIX	(Lat. 42°45'52.14" N, long. 073°34'41.41" W)
SLANG, VT	WP	(Lat. 43°14'24.64" N, long. 073°11'09.69" W)

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020 and effective September 15, 2020, is amended as follows:

*Paragraph 2066 United States Area Navigation Routes.*

\* \* \* \* \*

\* \* \* \* \*

Issued in Washington, DC, on July 19, 2021.

**George Gonzalez,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2021-15776 Filed 7-23-21; 8:45 am]

**BILLING CODE 4910-13-P**

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2021-0360; Airspace Docket No. 21-AEA-6]

**RIN 2120-AA66**

#### Amendment of Air Traffic Service (ATS) Routes; Northeast United States

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends VOR Federal airways V-39 and V-93 in support of the Northeast Corridor Atlantic Coast Route (NEC ACR), and the VOR Minimum Operational Network (VOR MON) Projects.

**DATES:** Effective date 0901 UTC, October 7, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/). For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

#### SUPPLEMENTARY INFORMATION:

#### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the VOR Federal airway route structure in the northeastern United States to maintain the efficient flow of air traffic.

#### History

The FAA published a notice of proposed rulemaking for Docket No. FAA-2021-0360 in the **Federal Register** (86 FR 27326; May 20, 2021), modifying VOR Federal airways V-39 and V-93. Interested parties were invited to participate in this rulemaking effort by

submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be subsequently published in the Order.

#### Availability and Summary of Documents for Incorporation by Reference

This action amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020 and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this rule. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### The Rule

This action amends 14 CFR part 71 by modifying VOR Federal airways V–39 and V–93 in the northeast United States. The route changes are described as follows:

V–39: V–39 currently extends between Sandhills, NC, and Mont Joli, PQ, Canada. This action removes the airway segments between Chester, MA, and Augusta, ME. As amended, V–39 consists of two parts: From Sandhills, NC, to Chester, MA; followed by a gap in the route; then from Augusta, ME to Mont Joli, PQ, Canada.

V–93: V–93 currently consists of two parts: From Patuxent River, MD, to the intersection of the Wilkes Barre, PA, 037° and the Sparta, NJ, 300° radials; and from the intersection of the Sparta, NJ, 018° and the Kingston, NY, 270° radials, to Bangor, ME. This action removes the segments between Chester, MA, and Bangor, ME. As amended, V–93 consists of two parts: From Patuxent River, MD, to the intersection of the Wilkes Barre, PA, 037° and the Sparta, NJ, 300° radials; followed by a gap; then from the intersection of the Sparta, NJ, 018° and the Kingston, NY, 270° radials, to Chester, MA.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

#### Regulatory Notices and Analyses

The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a

“significant rule” under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

The FAA has determined that this action of amending VOR Federal airways V–39 and V–93, in the northeastern United States qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to cause any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020 and effective September 15, 2020, is amended as follows:

*Paragraph 6010(a) Domestic VOR Federal Airways.*

\* \* \* \* \*

#### V–39 [Amended]

From Sandhills, NC, South Boston, VA; Gordonsville, VA; INT Gordonsville 331° and Martinsburg, WV, 216° radials; Martinsburg; Lancaster, PA; East Texas, PA; Sparta, NJ; Carmel, NY; INT Carmel 045° and Bridgeport, CT, 343° radials; INT Bridgeport 343° and Chester, MA, 223° radials; to Chester, MA. From Augusta, ME; Millinocket, ME; Presque Isle, ME; to Mont Joli, PQ, Canada, excluding the portion within Canada.

\* \* \* \* \*

#### V–93 [Amended]

From Patuxent River, MD, INT Patuxent 013° and Baltimore, MD, 122° radials; Baltimore; INT Baltimore 004° and Lancaster, PA, 214° radials; Lancaster; Wilkes-Barre, PA; to INT Wilkes-Barre 037° and Sparta, NJ 300° radials. From INT Sparta 018° and Kingston, NY, 270° radials; Kingston; Pawling, NY; to Chester, MA.

\* \* \* \* \*

Issued in Washington, DC, on July 20, 2021.

**George Gonzalez,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2021–15778 Filed 7–23–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG–2021–0547]

**RIN 1625–AA08**

#### Special Local Regulation; Tennessee River Miles 648 to 650; Knoxville, TN

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation on the Tennessee River from MM 648 to 650 on August 1, 2021 from 7 a.m. to 11 a.m. This special local regulation is needed to protect

personnel, vessels, and the marine environment from potential hazards created during the high speed races associated with the K-Town on the River triathlon marine event. Entry into the safety zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP).

**DATES:** This rule is effective from 7 a.m. to 11 a.m. on August 1, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0547 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email MST1 Nicholas Jones, U.S. Coast Guard; telephone 615–736–5421, email [Nicholas.J.Jones@uscg.mil](mailto:Nicholas.J.Jones@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
MM Mile Marker  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

##### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this regulation by August 1, 2021, and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because of the safety concerns for the participants in the K-Town on the River triathlon taking place on August 1, 2021.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that there are safety concerns for the participants of the K-Town on the River Triathlon due to the normal influx of both commercial and recreational vessel traffic. This rule is needed to protect participants for the duration of the swim portion of the event.

##### IV. Discussion of the Rule

This rule establishes a special local regulation from 7 a.m. until 11 a.m. on August 1, 2021. The special local regulation will cover all navigable waters from mile 648 to 650 on the Tennessee River. The duration of the zone is intended to protect participants of the K-Town on the river triathlon. No vessel or person or vessel, other than the participants, will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

##### V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

###### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size location, and duration of the zone. Vessel traffic will be limited for a four hour duration on one day.

###### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

###### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

###### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian

tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation lasting only 4 hours that will prohibit entry from mile 648 to 650 on the Tennessee River. It is categorically excluded from further review under paragraph L[61] and L[63a] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

#### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### **List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### **PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T08–0547 to read as follows:

#### **§ 100.T08–0547 Tennessee River MM 648 to MM 650, Knoxville, TN.**

(a) *Regulated area.* The regulations in this section apply to the following area: All waters of the Tennessee River from MM 648 to 650.

(b) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by phone at 502–779–5422. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners.

(c) *Enforcement period.* This section will be enforced on August 1, 2021, from 7 a.m. to 11 a.m.

Dated: July 14, 2021.

**A.M. Beach,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.*

[FR Doc. 2021–15805 Filed 7–23–21; 8:45 am]

**BILLING CODE 9110–04–P**

#### **DEPARTMENT OF HOMELAND SECURITY**

#### **Coast Guard**

#### **33 CFR Part 117**

[Docket No. USCG–2021–0099]

**RIN 1625–AA09**

#### **Drawbridge Operation Regulation; Okeechobee Waterway, Indiantown, FL**

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the operating schedule that governs the Seaboard System Railroad Bridge, across the Okeechobee Waterway, mile 28.2, at Indiantown, FL. This change will allow the swing bridge to be remotely operated, change the start and end times for advance notification for an opening during the overnight hours and update the name of the bridge.

**DATES:** This rule is effective August 25, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type USCG–2021–0099 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Omar Beceiro, U.S. Coast Guard Sector Miami Waterways Management Division, telephone 305–535–4317, email [Omar.Beceiro@uscg.mil](mailto:Omar.Beceiro@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
OMB Office of Management and Budget  
NPRM Notice of proposed rulemaking (Advance, Supplemental)  
§ Section  
U.S.C. United States Code  
FL Florida

##### **II. Background Information and Regulatory History**

On March 5, 2021, the Coast Guard published a Test Deviation, with a request for comments, entitled “Drawbridge Operation Regulation; Okeechobee Waterway, Indiantown, FL,” in the **Federal Register** (86 FR 12821), to test this operating schedule for the Seaboard System Railroad Bridge. Zero comments were received during the test period.

On April 12, 2021, the Coast Guard published a notice of proposed rulemaking entitled “Drawbridge Operation Regulation; Okeechobee Waterway, Indiantown, FL,” in the **Federal Register** (86 FR 18929). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this regulatory change. During the comment period that ended June 11, 2021, we received one comment which is addressed in Section IV of this final rule.

##### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The Seaboard System Railroad Bridge across the Okeechobee Waterway, mile 28.2, at Indiantown, FL, is a swing bridge with a seven-foot vertical clearance at mean high water in the closed position. Navigation on the waterway is commercial and recreational. The operating schedule for the bridge is set forth in 33 CFR 117.317(e).

The rule allows the swing bridge to be remotely monitored and operated. The

swing bridge will remain in the open to navigation position during daylight hours and close only for the passage of rail traffic. The start of the three hour advance notice for an opening will begin earlier each evening and end one hour later each morning. The time changes for the three hour advance notice will align with the operating schedule of the U.S. Army Corps of Engineers (USACE) Locks along this portion of the Okeechobee Waterway. The changes allow for the swing bridge to operate more efficiently while taking into account the reasonable needs of navigation. Additionally, the name of the swing bridge would be updated to reflect the current bridge owner.

This change allows vessels that are capable of transiting under the bridge, without an opening, to do so at any time and vessels are able to transit the bridge when advanced notice is given. Vessels in distress and public vessels of the United States must be allowed to pass at any time.

#### **IV. Discussion of Comments, Changes, and the Final Rule**

The one comment received did not object to the rule change but provided suggestions in addition to the proposed rule change. The commenter felt the bridge should remain open until 6 p.m. before shifting to the three hour advanced notice for an opening. The rule allows the bridge to shift to the three hour advanced notice at 7 p.m. until 7 a.m. daily. The commenter would like signage to be placed at unspecified locations along the waterway approximately one mile before the bridge. Per the commenter, this would greatly reduce congestion in the narrow channel at the bridge when in the closed position. Contact information for the bridge is found in 33 CFR 117.317(e) and posted on the bridge per Federal drawbridge regulations. Additional posting requirements, not in accordance Federal drawbridge regulations, are outside the Coast Guard's authority. The Coast Guard provided the bridge owner, CSX Transportation, with this recommendation from the commenter for consideration.

#### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protesters.

##### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a "significant regulatory action" under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the fact that vessels can still transit the bridge given advanced notice and vessels that can transit under the bridge without an opening may do so at anytime.

##### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received zero comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule may affect your small business, organization, or governmental jurisdiction or you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by

employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

##### *C. Collection of Information*

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

##### *D. Federalism and Indian Tribal Government*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

##### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

##### *F. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on

the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 117.317 by revising paragraph (e) to read as follows:

#### § 117.317 Okeechobee Waterway.

\* \* \* \* \*

(e) *Seaboard System Railroad bridge, mile 28.2 at Indiantown.* The draw of the CSX Railroad Bridge, mile 28.2 at Indiantown, FL, shall operate as follows:

(1) The swing bridge is not tendered locally, but will be monitored and operated by a remote operator.

(2) Marine radio communication shall be maintained, by the remote operator, with mariners near the bridge for the safety of navigation. Visual monitoring of the waterway shall be maintained with the use of cameras. Detection sensors shall be installed for the detection of vessels entering the radius of the swing span of the bridge while in operation.

(3) From 7 a.m. to 7 p.m., the bridge will be maintained in the open to navigation position and will display green lights to indicate that the span is fully open.

(4) When a train approaches, the remote operator shall monitor for vessels in the vicinity of the bridge. Provided the sensors do not detect a

vessel entering the swing radius of the bridge, the operator shall initiate the closing sequence, which includes the sounding of a horn. The span will remain in the closed position for the entire time the track circuit is occupied displaying red lights.

(5) After the train has cleared the track circuit, the span shall open and green lights will be displayed.

(6) From 7 p.m. to 7 a.m., the bridge will be in the closed to navigation position and will open if at least a three hour advance notice is requested via marine radio channel 9 VHF or telephone (813) 677–3974.

(7) The bridge shall not be operated from the remote location in the following events: Failure or obstruction of the detection sensors, remote actuation systems, cameras, or marine radio communications, or when directed by the Coast Guard. In these situations, a bridge operator must be on-site and locally operate the bridge.

\* \* \* \* \*

Dated: July 7, 2021.

Eric C. Jones,

Rear Admiral, U.S. Coast Guard, Commander Seventh Coast Guard District.

[FR Doc. 2021–15833 Filed 7–23–21; 8:45 am]

BILLING CODE 9110–04–P

### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2020–0056]

RIN 1625–AA09

#### Drawbridge Operation Regulation; Fox River, Oshkosh, WI

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending the operating schedule that governs the Canadian National Railroad Bridge, mile 55.72, across the Fox River to operate remotely. The request was made by the bridge owner. This rule re-establishes remote operations of the bridge and will not change the operating schedule of the bridge.

**DATES:** This rule is effective August 25, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type USCG–2020–0056 in the “SEARCH” box and click “SEARCH.” Click on Open Docket

Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, email [Lee.D.Soule@uscg.mil](mailto:Lee.D.Soule@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations

DHS Department of Homeland Security

FR Federal Register

OMB Office of Management and Budget

NPRM Notice of proposed rulemaking

(Advance, Supplemental)

§ Section

TD Temporary deviation with request for comments

U.S.C. United States Code

##### II. Background Information and Regulatory History

In 2010 we published a NPRM to solicit comments concerning allowing the Canadian National Railroad Bridge, mile 55.72 to operate remotely (75 FR 76322, December 8, 2010; USCG–2010–1029). The public requested the bridge owner to install and maintain additional warning lights. The NPRM was withdrawn because the railroad refused to install and maintain the additional warning lights the public requested (76 FR 13312, March 11, 2011). Recently, the Railroad has agreed that from April 27 through October 7 additional warning lights, specifically those alternating flashing red lights that mimic a Grade Crossing Signal commonly found at highway railroad crossing would be installed and maintained to warn mariners that the bridge was about to close. The remote operator shall also announce that the bridge is opening or closing on VHF–FM Marine Radiotelephone. The owners of the bridge shall maintain 2 board gauges in accordance with 33 CFR 118.160. The remote drawtender may be contacted by mariners at any time by radiotelephone or commercial phone number; this information shall be so posted on the bridge so that they are plainly visible to vessel operators approaching the up or downstream side of the bridge.

The current winter operating schedule requiring vessels to provide at least 12-hours advance notice for a bridge opening during the winter will remain in effect. Additionally, the clearance gauges would still be required to indicate to vessels the water levels and clearance while the bridge is in the closed position. During the comment period, a tender will be at the bridge to allow the public to observe the proposed bridge operations. We

published an after the fact TD in the **Federal Register** (85 FR 54496) on September 2, 2020, for a test schedule that ran from April 26, 2020, through September 2, 2020. Posting in the **Federal Register** was delayed due to COVID-19 but we supplemented the request with direct emails, Local Notice to Mariners, and internet based meetings platforms. No comments were received.

We published a NPRM in the **Federal Register** (86 FR 18925) that was published on April 12, 2021, and requested comments until June 11, 2021. We received one comment concerned with general safety at the bridge. The commenter predicted remotely operating the bridge would result in a higher risk of allision and collisions at the bridge along with increased delays for boaters. Most of the commenter's concerns were addressed in the TD and NPRM and no reports of mishap or allision was received during the TD. The commenter stated long delays at the bridge for vessels; however, the Coast Guard has not received any reports of delay in approximately five years.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. This rule will allow the bridge to operate remotely and it will not change the operating schedule of the bridge. The bridge will open on signal, except when ice forms in the waterway and vessels can request an opening if a 12-hour advance notice is provided.

### IV. Discussion of Final Rule

We carefully reviewed the comments and did not find good reason to alter the language as published in the NPRM.

### V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protesters.

#### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice in the winter and by signal all other times.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V. A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

We did not receive any comments from Indian Tribal Governments.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

*G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

**List of Subjects in 33 CFR Part 117**

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 117.1087 by revising paragraph (c) to read as follows:

**§ 117.1087 Fox River.**

\* \* \* \* \*

(c) The draw of the Canadian National Railroad Bridge at mile 55.72 shall open on signal, except from October 8 through April 26; the draw shall open if at least 12-hours advance notice is given. The bridge is authorized to be operated remotely. The owners of the bridge shall provide and keep in good legible condition two board gauges painted white with black figures to indicate the vertical clearance under the closed draw at all water levels. The gauges shall be so placed on the bridge that they are plainly visible to operators of vessels approaching the bridge either up or downstream. The bridge shall operate and maintain a VHF–FM Marine Radio. In addition to the required bridge lights, the owner's shall install and maintain alternating red lights in a horizontal line that mimic grade crossing lights and bell to warn mariners that the bridge is lowering.

\* \* \* \* \*

**M.J. Johnston,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. 2021–15806 Filed 7–23–21; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF EDUCATION****34 CFR Chapter III**

[Docket ID ED–2021–OSERS–0003]

**Final Priority and Requirements—Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are DeafBlind Program**

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Final priority and requirements.

**SUMMARY:** The Department of Education (Department) announces a priority and requirements for the Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are DeafBlind program, Assistance Listing Number 84.160D. The Department may use the priority and requirements for competitions in Federal fiscal year (FFY) 2021 and later years. We take this action to provide training to working interpreters in order to develop a new skill area or enhance an existing skill area. This notice relates to the approved information collection under OMB control number 1820–0018. **DATES:** This priority and requirements are effective August 25, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Kristen Rhinehart-Fernandez, U.S. Department of Education, 400 Maryland Avenue SW, Room 5094, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–6103. Email: [160D@ed.gov](mailto:160D@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**Purpose of Program:** The Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are DeafBlind program is designed to establish interpreter training programs or to provide financial assistance for ongoing interpreter programs to train a sufficient number of qualified interpreters throughout the country in order to meet the communication needs of individuals who are deaf or hard of hearing and individuals who are DeafBlind by—

(a) Training interpreters to effectively interpret and transliterate between spoken language and sign language and to transliterate between spoken language and oral or tactile modes of communication;

(b) Ensuring the maintenance of the interpreting skills of qualified interpreters; and

(c) Providing opportunities for interpreters to raise their skill level competence in order to meet the highest standards approved by certifying associations.

**Program Authority:** 29 U.S.C. 709(c) and 772(a) and (f).

**Applicable Program Regulations:** 34 CFR part 396.

We published a notice of proposed priority and requirements (NPP) for this competition in the **Federal Register** on March 2, 2021 (86 FR 12136). That document contained background information and our reasons for proposing the priority and requirements.

**Public Comment:** In response to our invitation in the NPP, 71 parties submitted comments on the proposed priority and requirements. Most of the commenters expressed support for the specialty areas in the priority, which included increasing skills of novice interpreters, trilingual interpreting (including Spanish), advanced skills for working interpreters, as well as field-initiated projects such as interpreting in healthcare (including hard-to-serve populations), interpreting for individuals who are DeafBlind, and atypical language interpreting. Commenters expressed that the specialty areas are relevant, critical, and appropriately value remote learning, field work, mentorship, and coaching experiences.

We group major issues according to subject and discuss substantive issues under the title of the priority or requirement to which they pertain. Generally, we do not address technical and other minor changes. In addition, we do not address general comments that raised concerns not related to the proposed priority or requirements.

**Analysis of the Comments and Changes:** An analysis of the comments and of any changes in the priority and requirements since publication of the NPP follows.

**Interpreting in Specialty Areas**

**Comment:** One commenter referenced Specialty Area (1) (increasing skills for novice interpreters) and reiterated that, according to the National Interpreter Education Center (NIEC), challenges facing interpreter training and education programs are prevalent. The commenter asserted that interpreter education programs fail to produce enough American Sign Language (ASL) fluent graduates and further stated that there needs to be an emphasis on recruiting individuals from underrepresented groups for interpreter training programs. The commenter also stated that retention of novice interpreters from

underrepresented groups is vital to the success of the specialty area. The commenter noted that there are currently gaps in knowledge about the interpreting process and ethical decision-making among novice interpreters. The commenter also stated that training programs should include curriculum that is accessible for students who are deaf and hard of hearing.

*Discussion:* The Department agrees with the comments about the importance of training and education for, and retention of, interpreters, including interpreters from underrepresented groups. Applicants are encouraged to formulate curriculum for novice interpreters from underrepresented groups, novice interpreters who are deaf or hard of hearing, and other groups of novice interpreters.

*Changes:* None.

*Comment:* Six commenters expressed support for Specialty Area (2) (trilingual interpreting (including Spanish)) and explained that the demand for trilingual interpreters grows every year as more diverse and Spanish-speaking individuals who are deaf, hard of hearing, and DeafBlind enter higher education and the workforce. One commenter noted that expanding interpreter training to individuals from a variety of backgrounds would increase the availability of interpreters with skills in third languages. The same commenter explained that interpreters will benefit from this specialty area by expanding their skills in trilingual interpreting and the recipients of services will benefit from the diverse range of interpreter skills available to them. Furthermore, commenters explained that this specialty area will help interpreter training participants to unlearn bias, develop problem-solving skills, and be more open-minded. A final commenter recommended adding a third language requirement to interpreter training programs so that interpreters may assist individuals who do not use ASL as their primary language.

*Discussion:* The Department appreciates the comments. In the background section of the NPP, we explained that there may be parts of the country where multiple languages are spoken by individuals who are deaf and hard of hearing. Therefore, applicants may propose projects with multiple language combinations, which may include individuals who use signed languages other than ASL as their primary language.

*Changes:* None.

*Comment:* Four commenters expressed support for Specialty Area (3) (advanced skills for working interpreters). One commenter stated that interpreters with advanced skills and knowledge of highly specialized terminology, discourse, and emerging areas of ASL are drastically needed to assist individuals who are deaf and hard of hearing and pursuing highly specialized areas of education. Commenters stated that knowledge and awareness of the ethical implications in the field of interpreting are vital for interpreter training programs. Lastly, one commenter emphasized that heritage signers would greatly benefit from gaining advanced skills in interpreting and that heritage language interpreters should be explicitly included within the specialty area.

*Discussion:* We appreciate the comments and agree that it is crucial for interpreters, including heritage signers who are working as interpreters, to improve their working knowledge and skills and stay up to date on ethical considerations in interpreting. Applicants who identify a need for advanced skills for working interpreters are encouraged to apply under this specialty area.

*Changes:* None.

*Comment:* Six commenters expressed support for Specialty Area (5), topic area (a) (interpreting in healthcare including interpreting for hard-to-serve populations). Two commenters emphasized the severe lack of qualified interpreters within the healthcare profession and the barriers this creates for individuals who are deaf, hard of hearing, and DeafBlind. The commenters referred to the Americans with Disabilities Act (ADA), and stated that effective communication is vital to ensure individuals who are deaf, hard of hearing, and DeafBlind receive quality healthcare. The same commenters explained that a delay in effective communication can lead to a delay in direct patient care, including care coordination, and can ultimately produce poor patient outcomes. Two commenters expressed the increased need for interpreters who are proficient in telehealth and telemedicine settings and that training in this area should be incorporated within the specialty area.

*Discussion:* The Department appreciates the comments and agrees that effective communication is vital for individuals who are deaf, hard of hearing, and DeafBlind to receive quality healthcare services. Furthermore, the Department agrees that the demand for telehealth appointments has grown due to the COVID-19 pandemic and accommodations for

individuals who are deaf, hard of hearing, and DeafBlind are necessary. Applicants under this specialty area may incorporate skills training for interpreting in telehealth settings to best facilitate telehealth medical appointments.

*Changes:* None.

*Comment:* Nine commenters expressed support for Specialty Area (5), topic area (b) (interpreting for individuals who are DeafBlind). Commenters highlighted the essential connection between access to skilled interpreters and autonomy for individuals who are DeafBlind.

Within Specialty Area (5), topic area (b), many commenters stated support for training in and awareness of protactile interpreting because it is critical for the success, autonomy, and opportunities for employment of individuals who are DeafBlind. Commenters asserted that the traditional means of communication for individuals who are DeafBlind, such as manual ASL and print-on-palm, lack the fullness and richness of expression found in protactile ASL. Three commenters stated that grantees focused on protactile ASL should commit to following evidence-based practices as a result of baseline data collected over the past five years and should recruit experienced DeafBlind language experts to assist in the formulation of the project. Another commenter referenced survey results from multiple training cohorts of Deafblind interpreters that recognized protactile interpreting as a language separate from ASL with its own grammatical rules. Finally, one commenter shared that the extreme lack of protactile interpreters has created a compounding negative effect for individuals who are DeafBlind, such as a lack of educational opportunities, isolation, and mental health issues.

*Discussion:* We appreciate the comments. We agree with the commenters who recommended that projects be based on evidence-based practices and note that the priority addresses the use of evidence-based practices. Under *Application Requirements*, “Significance of the Proposed Project,” paragraphs (a)(3)(i)–(ii), applicants must identify competencies that working interpreters must demonstrate in order to provide high-quality services in the identified specialty area using practices that demonstrate a rationale or are based on instruction supported by evidence, when available, and demonstrate that the identified competencies are based on practices that demonstrate a rationale or are supported by evidence. Additionally, under *Application Requirements*, “Quality of Project

Services,” paragraph (c)(6), applicants must describe how the project will incorporate adult learning principles and practices that demonstrate a rationale or are supported by promising evidence for adult learners.

In response to the commenter’s suggestion that experienced DeafBlind language experts should assist in the formulation of the project, the Department notes that the priority addresses how interpreters, interpreter educators, and others will be involved in the formulation of the project. Under *Application Requirements*, “Quality of Project Design” paragraph (b)(3), applicants must describe how the proposed project will provide skilled, diverse, and experienced leaders, mentors, facilitators, coaches, and subject matter experts, as appropriate for the specialty area, to participants, as needed. Lastly, the Department recognizes the need for training and awareness of pro-tactile American sign language (PTASL). As we noted in the background section of the NPP, projects under Specialty Area (5), topic area (b), may include various techniques for interpreting for individuals who are DeafBlind, including print on palm (POP), tactile sign language, tracking, tactile fingerspelling, Tadoma, PTASL, and others.

*Changes:* None.

*Comment:* Four commenters stated support for Specialty Area (5), topic area (c) (atypical language interpreting). With regard to the background information provided in the NPP on topic area (c), one commenter noted that while Specialty Area (5), topic area (c), acknowledges the senior deaf population, the specialty area should be expanded to include training for interpreters needed as the result of an injury or sudden change in verbal communication. The commenter stated that although the inclusion of the senior deaf population is positive for those who can communicate easily with an interpreter, it may be difficult for an individual who is not used to working with an interpreter. The commenter explained that having the skillset in atypical language interpreting is essential, but the ability to meet an individual at their level of understanding is also essential. Additionally, the commenter stated that individuals who demonstrate non-verbal communication would also benefit from interpreters trained in this specialty area. Another commenter asked if grantees are permitted to expand atypical language interpreting services to deaf seniors who may not be receiving VR services.

*Discussion:* To expand on the background information provided in the NPP, we support the inclusion of individuals who may become deaf as a result of injury, illness, or sudden change from verbal to non-verbal communication (late-deafened individuals) as those who may seek services from interpreters trained in atypical language. According to the NIEC trends report (2015), the late-deafened population is growing swiftly and includes a growing population of returning veterans with hearing loss. According to the Hearing Health Foundation, 60 percent of veterans returning from Iraq and Afghanistan have a hearing loss, and the Department of Defense identified hearing loss as the most prevalent war wound. Lastly, in response to a question posed by a commenter about expanding atypical language interpreting services to deaf seniors who may not be receiving VR services, atypical language interpreting services can be extended to all participants supported by the Rehabilitation Act of 1973 (Rehabilitation Act), even if they are not actively seeking VR services.

*Changes:* None.

#### Eligibility Requirements

*Comment:* Many commenters expressed a desire that we expand the specialty areas to include training for interpreters to meet the needs of students who are deaf, hard of hearing, and DeafBlind from pre-Kindergarten (pre-K) to grade 12 and increase the number of highly qualified interpreters in the classroom. Two commenters referred to Universal Design (UD) for Learning, which provides the opportunity for all students to access, participate in, and progress in general-education curriculum by reducing barriers to instruction. The same two commenters also referred to the least restrictive environment, which requires that students with disabilities receive an education to the maximum extent appropriate, with nondisabled peers, and that special education students are not removed from regular classes unless education in regular classes with the use of supplemental aids and services cannot be achieved. Commenters stated that training interpreters and increasing standards will positively affect how students receive an education and how students develop the skills they need to succeed in life. Further, commenters noted that interpreters trained in specialized areas are needed for high school students taking advanced classes such as calculus, physics, and STEM.

*Discussion:* We appreciate the comments describing the need for

highly qualified interpreters for students from pre-K to grade 12, including interpreters trained in specialized areas needed for high school students, and the information about UD and the least restrictive environment. The Department funds grant awards to train interpreters to work with children from pre-K to grade 12 under the Individuals with Disabilities Education Act (IDEA) Personnel Preparation in Special Education, Early Intervention, and Related Services program. It would be duplicative to include training for interpreters to work with children and students from pre-K to grade 12 in this priority. The purpose of this priority is to fund projects that provide training to working interpreters in one of five specialty areas to effectively meet the communication needs of individuals who are deaf or hard of hearing and individuals who are DeafBlind receiving VR services and/or services from other programs, such as independent living services, under the Rehabilitation Act.

*Changes:* None.

*Comment:* Two commenters recommended adding a requirement that eligible applicants possess Commission on Collegiate Interpreter Education (CCIE) accreditation because CCIE is the only recognized external reviewing body to provide assurance that interpreter education programs have met standards of quality. One commenter noted that, under *Application Requirements*, “Quality of Project Design,” paragraph (b)(1), applicants may be required to develop a new training program or stand-alone modules that can be incorporated into existing ASL/English or ASL/other spoken language interpreter education programs. The commenter stated that if the grantee does not hold CCIE accreditation, these potentially high-impact deliverables may be of insufficient quality.

*Discussion:* The Department appreciates the comments. We recognize that CCIE is the only entity in the field of interpreter education that measures the standards of interpreter education programs. We also understand CCIE was founded to promote professionalism in the field of interpreter education through the process of accreditation. We are concerned about budgetary and other constraints that may limit institutions pursuing CCIE accreditation. Additionally, requiring applicants to possess CCIE accreditation would limit the pool of eligible applicants. At this time, there are 58 identified baccalaureate (BA) interpreting programs nationwide representing full interpreting BA programs or a BA with interpreting

combined with another study. Of those, according to the CCIE website, 16 BA programs are CCIE accredited. By not requiring CCIE accreditation, we are broadening the applicant pool, especially for novice applicants, and ensuring diversity, equity, and inclusion among all prospective applicants.

*Changes:* None.

### Other Areas

*Comment:* Two commenters recommended expanding the non-discrimination categories included under *Application Requirements*, paragraph (c)(1) and (e)(1), which state that applicants must demonstrate how the project will ensure equal access and treatment for eligible project participants who are members of groups who have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. One commenter commended the Department for its inclusion of “gender” within the list of non-discrimination categories, which safeguards transgender individuals or those otherwise impacted by gender identity. The commenter further noted that “sexual orientation” should be included within the list of non-discrimination categories. The commenter explained that the inclusion of “sexual orientation” is important for the protection of Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning (LBGTQ) individuals, as members of a group that has traditionally been underrepresented. Another commenter urged the Department to expand the list of non-discrimination categories to include gender identity or expression, racial identity, religious affiliation, sexual orientation, socioeconomic status, deaf or hard of hearing status, disability status, age, geographic locale, sign language interpreting experience, certification status and level, and language basis. The commenter asked that applications be evaluated based on a commitment to ensuring participation from the widest variety of society.

*Discussion:* The Department appreciates the comments regarding the groups of people that have been traditionally underrepresented described under *Application Requirements*, “Quality of Project Services,” paragraph (c)(1) and “Adequacy of Project Resources,” paragraph (e)(1). In these requirements, the groups of people that we have identified as historically underrepresented mirror the identified groups in the Department’s general selection criteria for discretionary grant competitions in 34 CFR 75.210. We recognize that this list is not exhaustive.

However, as we intend to use the selection criteria in 34 CFR 75.210 in combination with these application requirements in the competition for this program, it is important that the lists of groups align to help ensure clarity and consistency.

*Changes:* None.

*Comment:* One commenter stated that trained interpreters need to have background checks before working with individuals who are deaf, hard of hearing, and DeafBlind.

*Discussion:* The Department acknowledges the importance of safety for individuals with disabilities who are deaf, hard of hearing, and DeafBlind. However, background checks for program participants are not required under this priority due to the potential costs and time associated with conducting background check investigations, interest in protecting the privacy of participants, and concern about potentially limiting trainee participation. Applicants are encouraged to follow their organization’s policies and procedures to determine if there is a need for participant background checks based on the type of specialized training.

*Changes:* None.

*Comment:* One commenter noted that the *Application Requirements* would be easier to understand if they were organized into shorter sections.

*Discussion:* We appreciate the comment. We did not receive any further comments or recommendations regarding the organization and clarity of the *Application Requirements*. We are following the typical structure we have used for priorities under this program.

*Changes:* None.

### Cost-Share

*Comment:* Several commenters requested reduction or removal of the cost-share requirement. One commenter emphasized that discretionary grant projects require significant effort with support needed across multiple areas of the university to process, support, and effectively manage the project. Another commenter asserted that institutions of higher education (IHEs) have been preparing for a sharp decrease in student enrollment, budget cuts, and the elimination of academic programs due to COVID-19. Commenters explained that for eligible applicants, the expected cost-share percentage may be a barrier to prospective applicants as IHEs may not be in position to meet the cost-share requirement.

*Discussion:* The Department recognizes the concerns raised by the commenters and acknowledges hardships in meeting the cost-share

requirement, especially due to the COVID-19 pandemic. The Department is concerned about the ability of grantees to effectively meet the cost-share requirement given uncertainties due to the COVID-19 pandemic while also ensuring the delivery of high-quality training. Interpreter training programs are generally smaller programs within IHEs, and they may not fully benefit from the financial support available during the COVID-19 pandemic. Therefore, a cost-share requirement may discourage eligible applicants, especially first-time applicants. To address these concerns, and as reflected in the notice inviting applications (NIA) for this program, published elsewhere in this issue of the **Federal Register**, the Department is not requiring any cost-share for the Federal Fiscal Year 2021 competition.

*Changes:* None.

### Working Interpreters

*Comment:* Five commenters raised concerns about the requirement that interpreter training in specialty areas focus on working interpreters (*i.e.*, interpreters with a baccalaureate degree in ASL-English who possess a minimum of three years of relevant experience as an interpreter) stated in the background section of the NPP. One commenter stated that, while the priority defines working interpreters as those who have graduated from four-year bachelor’s degree programs in interpreting, the Registry for Interpreters of the Deaf (RID) requires a bachelor’s degree but it does not have to be in interpreting. A second commenter asserted that in the NPP, the definition of “working interpreters” does not align with current industry standards. For example, the industry accepts life experience, years of professional experience, and years of education (credit hours) not totaling a formal degree and accepts continuing education units in addition to the aforementioned in order to satisfy the educational equivalency application. The commenter urged the Department to establish similar education equivalency standards. A third commenter noted that becoming a qualified interpreter is very difficult and that it is important to help interpreter students obtain the necessary qualifications needed to meet the needs of individuals who are deaf, hard of hearing, and DeafBlind. A fourth commenter remarked that this requirement appears to be inconsistent with the goals of the program. The same commenter asserted that requiring three years of experience in order to receive training defeats the purpose of all interpreters nationwide having the capabilities to develop specialized

skills. A fifth commenter noted that there are many novice and experienced interpreters who would not qualify to participate in the program under the definition of “working interpreter.” The commenter also stated that associate and certificate interpreter programs continue to exist and are a critical entry point for many Black, Indigenous, and People of Color (BIPOC) interpreters, who are often first-generation college students and that requiring a bachelor’s degree before participating in specialized training excludes a viable group of participants in the program. Conversely, one commenter supported requiring three years of experience and a diploma for ASL because it would raise the standards and quality of interpreters across the Nation.

**Discussion:** The Department agrees with the commenters who contended that the education and experience requirements were too limiting and is expanding the definition of “working interpreter” to avoid unnecessarily limiting the pool of qualified participants to those who have a baccalaureate degree in ASL-English and promote participation within projects. To address the commenter’s suggestion to recognize educational equivalence for participants who may not meet the definition of working interpreter, educational equivalence may be used in place of the baccalaureate degree on a case-by-case basis and in consultation with the RSA project officer. Grantees should apply the definition of working interpreter when identifying participants for their respective projects to the extent possible.

We disagree with the commenter who asserted that requiring three years of experience to receive training defeats the purpose of all interpreters nationwide having the capabilities to develop specialized skills. The Department believes that interpreting experience is necessary for participants to be successful in the program. According to the National Interpreter Education Center (NIEC) Trends Report (2015), interpreter education programs generally do not produce graduates who demonstrate fluency in American Sign Language (ASL). As a result, recent graduates from interpreter training programs with little or no work experience are limited in the range of populations and settings in which they can begin to gain work experience. Two to four years of academic study of a language is generally insufficient to acquire fluency in any language, much less a modality-different language. Based on information gathered from the FY 2016 grant cycle, the success of

interpreter training in specialty areas requires a solid foundation in ASL fluency and interpreting experience. The specialty areas are rigorous, and require self-discipline, commitment, and time management. Therefore, we have established that three years of experience for working interpreters is needed to demonstrate language proficiency in ASL and experience interpreting for individuals with a range of communication skills.

Finally, we agree with the comment that associate and certificate interpreter programs continue to exist and are a critical entry point for many BIPOC interpreters. Therefore, we have expanded the list of locations for information dissemination to include associate degree level ASL-English programs.

**Changes:** We have expanded the definition of “working interpreter” in the first paragraph of the final priority to reflect that interpreters who are considered for training in specialty areas outlined in this priority must possess a baccalaureate degree and a minimum of three years of relevant experience as an interpreter. On a case-by-case basis and in consultation with RSA, educational equivalence may be used in place of the baccalaureate degree. We also expanded the language under *Application Requirements*, “Quality of Project Design,” paragraph (b)(1), and “Quality of Project Services,” paragraph (c)(10)(ix), to include associate degree level ASL-English programs.

#### Program Design

**Comment:** One commenter asked the Department to modify the *Application Requirements* under “Significance of the Project,” paragraph (a)(1), which requires applicants to demonstrate that data signifies a need for interpreters in the designated specialty areas. The commenter stated that there is limited data available regarding interpreting in specialty areas. The commenter explained that the lack of data makes it difficult to demonstrate a need for interpreting in specialty areas that are mentioned in the priority, especially for field-initiated topic area (d) (other topics). The commenter asked the Department to allow applicants to demonstrate need without relying solely on data.

**Discussion:** The Department appreciates the comment and recognizes that baseline data for interpreter training in specialty areas is limited. We account for this under *Application Requirements*, “Significance of the Project,” paragraph (a)(2). The section states that, in the event that an applicant

proposes training in a new specialty area that does not currently exist or for which there are no baseline data, the applicant should provide an adequate explanation of the lack of reliable data and may report zero as a baseline.

**Changes:** None.

**Comment:** Some commenters asserted that the majority of sign language interpreters are non-native users of ASL. Commenters explained that, as a result, most interpreter training programs focus on second language learners (L2) instead of native signers, heritage signers, and lifelong fluent signers. One commenter explained that, while each of these groups is different in terms of formative experience and language development trajectory, they have much more in common with each other than they do with L2 signers. The commenter specified that training programs should prioritize these groups and consider pedagogical implications. The commenter stated that signers with strong ties to the Deaf community are an untapped pool of potential interpreters that can be quickly and effectively trained. The commenter further stressed the urgent need for high-quality interpreters as more States pass licensure requirements. One commenter noted that recruitment is not enough and that interpreter training programs should develop programming that addresses the needs of this frequently overlooked population. To this end, one commenter recommended adding the recruitment and training of native signers, heritage signers, and lifelong fluent signers as an additional specialty area. Another commenter proposed a modification under *Application Requirements*, “Quality of Project Services,” paragraph (c). The commenter recommended the addition of a requirement that supports interpreters who come from heritage signing backgrounds, Deaf and child of a Deaf adult (CODA) backgrounds, and interpreters who have not engaged in structured interpreter training programs.

**Discussion:** The Department agrees that native, heritage, and lifelong fluent signers have much to contribute to the profession of interpreting. The Department also recognizes the benefit of the increased inclusion of Deaf interpreters and has supported interpreter practice and training for Deaf interpreters in prior grant cycles (see <https://nctm.ed.gov/> for more information). In the NIEC 2015 Trends Report, 61 percent of service providers responding to the trends survey reported an increase in the demand for the services of Deaf interpreters and 81 percent reported difficulty finding qualified Deaf interpreters. Specialty

area (5)(d), other topics, allows for field-initiated topics in a new topic area or in areas for which there is existing training that is not adequately meeting the needs of interpreters working in the field of VR. Under specialty area (5)(d), applicants may propose a project that addresses the inclusion, training, and recruitment of Deaf signers. We agree with the recommendation to include outreach for individuals who come from heritage signing, deaf, and CODA backgrounds in the “Quality of Project Services.”

**Changes:** We are revising *Application Requirements*, “Quality of Project Services,” paragraph (c)(3), to include individuals who come from heritage signing backgrounds, deaf, and CODA backgrounds.

**Comment:** One commenter noted that the Application Requirements do not mention language planning in the development or delivery of the project. The commenter recommended that a section be added under *Application Requirements*, “Quality of Project Services,” paragraph (c)(7) to require that educational content and related discussions/activities be developed in both English and ASL. According to the commenter who had developed a bilingual curriculum, the ability to engage with the content in both languages has improved engagement from participants and learning outcomes for all participants.

More specifically, Deaf and CODA participants in the commenter’s project reported that being able to learn in their native language made learning more fun and engaging. Hearing participants reported that having the opportunity to discuss complex topics in ASL increased their language flexibility and fluency. The commenter noted that while the development of a bilingual curriculum was time consuming and costly, it led to a positive retention rate and successful outcomes.

**Discussion:** We agree that interpreter training in specialized areas could benefit from a bilingual curriculum to maximize engagement and outcomes for all participants, and applicants are encouraged to consider creating a bilingual curriculum. However, we have concerns about time and costs associated with this effort. Creating video content requires more and different resources than educational content that is only available in English/print material. We also want to ensure grantees are in a position to complete pilots by the end of the first year and begin training in the second year of the project. Accordingly, due to cost and timing considerations, we do not think

it is appropriate to require a bilingual curriculum.

**Changes:** None.

**Comment:** Regarding *Application Requirements*, “Quality of Project Design,” paragraph (b), one commenter stated that the priority aims to address the shortage of working interpreters but does not give enough attention to the shortage of skilled and experienced educators and mentors from diverse backgrounds available to support interpreter training in specialty areas. The commenter requested that we require applicants to describe how they will build and support the skills of educators who are also experienced and comfortable with remote delivery. The commenter reflected on their own experience, stating that it took about three years and a large part of a project to train, build capacity, and support a small number of educators. The commenter concluded that investing in skilled and experienced educators and mentors would lead to meaningful experiences for participants and long-term impacts for interpreter education.

**Discussion:** We agree that it is important to provide participants with a high-quality training experience and for applicants to identify skilled and experienced leaders, mentors, facilitators, coaches, and subject matter experts, as appropriate for the specialty area, and to develop the necessary training for them to improve and enhance interpreting skills in their respective areas and deliver instruction remotely, as needed. The remote learning environment must be accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, as applicable. We also recognize that there may be a limited pool of skilled and experienced leaders, mentors, facilitators, coaches, and subject matter experts. Applicants are strongly encouraged to consider train-the-trainer models and other relevant models to increase their capacity, as well as create opportunities for participants to advance as mentors, coaches, and facilitators in the program.

**Changes:** Under *Application Requirements*, we are revising “Quality of Project Design,” paragraph (b)(3), to address providing skilled, diverse, and experienced leaders, mentors, facilitators, coaches, and subject matter experts, as needed. Under *Application Requirements*, “Quality of Project Services,” paragraph (c)(5), we are adding a requirement that applicants describe how they will identify skilled, diverse, and experienced leaders, mentors, facilitators, coaches, and

subject matter experts, as appropriate for the specialty area, and develop necessary training for them to improve and enhance interpreting skills in their respective areas, as well as in remote delivery, as needed. Applicants must also describe how they will grow the pool of experienced personnel and create opportunities for participants to advance as mentors, coaches, and facilitators in the program.

### Induction Experience

**Comment:** We received a number of comments with respect to the requirements related to the induction experience described under *Application Requirements*, paragraph (c)(7)(iii). Commenters observed some challenges with offering a small number of high-quality induction experiences versus a large number of induction experiences that may be of lower quality. Some commenters noted that induction experiences would lead to better qualified interpreters in specialized areas while some other commenters noted that participants may not be in a position to commit to an induction experience and, as a result, potential participants may decide not to participate in the program, leading to programs serving fewer participants. Additionally, commenters shared that for field-initiated projects, the interpreter training specialty area may be brand new or in early development and, as a result, there may be limited opportunities for induction experiences. Commenters noted limited availability of educators, mentors, and supervisors necessary to support the newly developed induction experiences. One commenter encouraged induction experiences to be fully and equally accessible to deaf and hard of hearing individuals. Finally, commenters noted that classroom instruction alone is not enough, indicating that inductions offer participants a deeper learning experience and may offer opportunities for employment.

**Discussion:** We agree that induction experiences are critical and necessary for interpreters to raise their skill level to effectively meet the communication needs of individuals who are deaf, hard of hearing, and DeafBlind. The proposed priority included a requirement that participants receive an induction in each specialty area as part of successful completion in the program. We recognize that in-person inductions may need to occur remotely during the COVID-19 pandemic. We acknowledge limitations regarding available induction opportunities and trained personnel necessary to support them. We also acknowledge that not all

potential participants are in a position to participate in an induction but would still benefit significantly from participating in the program. Finally, we agree with the comment that inductions must be fully and equally accessible to deaf, hard of hearing, and DeafBlind participants.

**Changes:** We are revising the *Application Requirements*, “Quality of Project Services,” paragraph (c)(8)(iii), to clarify that, to the extent possible, the proposed project will establish induction experiences in the specialty area for participants as part of successful completion in the training program. We are also revising this requirement to clarify that applicants must be prepared to pivot between in-person and remote inductions during the grant, as needed, throughout the duration of the COVID-19 pandemic. We also provide that the number of participants completing inductions may be based on availability of opportunities and trained personnel necessary to support them. Applicants must work to increase the availability of inductions in their respective specialty area, where possible. Finally, we are expanding the requirements under paragraph (c)(8)(iii) to indicate that the induction environment must be designed in such a way that meets the communication preferences of individuals who are deaf, hard of hearing, and DeafBlind.

#### **Impacts of the COVID-19 Pandemic and Remote Learning**

**Comment:** A number of commenters noted that the COVID-19 pandemic has changed or impacted interpreter education. Several commenters raised concerns about the training being offered remotely during the pandemic and described challenges regarding access, delivery, and participation, particularly for individuals located in rural areas. Another commenter noted that the COVID-19 pandemic has made the process of becoming a qualified interpreter more challenging. One commenter indicated that the transition to a virtual classroom and hiatus of onsite practicum opportunities has left an entire cohort of interpreting students behind. The commenter noted that many students took a leave of absence and will struggle to return, practicums were cancelled, and in-person quality assurance screenings were suspended. Another commenter focused on how the COVID-19 pandemic has impacted the learning environment for students nationwide and recommended that the priority address this issue. One commenter asserted that training for interpreters in the specialty areas and under *Application Requirements*,

“Quality of Project Design,” paragraphs (b)(1), (2), and (4), should not be implemented entirely online. The commenter contended that online training is exclusive and only accessible to individuals who have access to the equipment needed to participate. Conversely, three commenters asserted that projects must continue virtually during the COVID-19 pandemic. One commenter stated that even with the challenges of COVID-19 and the changes to the learning environment, this project can be done virtually. Another commenter shared that funding could help create a program that functions well under current conditions in the COVID-19 pandemic. Finally, one commenter stated that preparing interpreters to work in a nearly exclusive virtual platform is necessary and nearly non-existent in most interpreter education program curricula.

**Discussion:** We agree the COVID-19 pandemic has substantially impacted all aspects of interpreter education and training from design to delivery of services. We also agree that access to high-quality training is essential for all participants in this program, regardless of location and financial status. The Department appreciates the concerns about remote learning. As stated in the background section of the NPP, remote learning may include online, hybrid/blended learning, or non-technology-based learning. Applicants may decide when to safely offer in-person training and must be prepared to pivot between in-person and remote learning during the project, as needed, throughout the duration of the pandemic. Additionally, under the *Application Requirements*, “Quality of Project Design,” paragraphs (b)(1), (2), and (4) offer flexible options for implementing both in-person and remote learning. Because the Department has defined “remote learning” broadly, we believe it is inclusive and accessible for the majority of participants. Further, given the restrictions on gatherings caused by the COVID-19 pandemic, remote learning is a viable option for many programs and participants. Applicants are strongly encouraged to access the Department’s COVID-19 resource page at: [www.ed.gov/coronavirus](http://www.ed.gov/coronavirus).

**Changes:** The Department has revised *Application Requirements*, “Quality of Project Design,” paragraph (b)(2), to convey that applicants may decide when to safely offer in-person training and must be prepared to pivot between in-person and remote learning during the project, as needed, throughout the duration of the COVID-19 pandemic. To ensure consistency with the Department’s Administrative Priority

and Definitions for Discretionary Grant Programs, published on December 30, 2020 (85 FR 86545), we have added to *Application Requirements*, “Quality of Project Design,” paragraph (b)(1), that the remote learning environment must be accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, as applicable.

**Comment:** One commenter noted that the priority and requirements do not mention interpreting services provided over the technological medium of video (*i.e.*, Over Video Interpreting) and recommended the incorporation of Over Video Interpreting in the priority and application requirements. The commenter explained that Over Video Interpreting occurs through video conferencing software/equipment and a high-speed internet connection and can be either Video Relay Service (VRS) or Video Remote Interpreting (VRI). The commenter shared that VRS, administered by the Federal Communications Commission, employs thousands of interpreters to provide service to tens of thousands of individuals who are deaf, hard of hearing, and DeafBlind to support their telecommunication needs for daily living. The commenter noted that VRI has been a growing platform for interpreting services for several years in a wide variety of settings, including medical establishments, mental health settings, police stations, schools, and the workplace. The commenter further stated that video interpreting has seen a steep increase with physical distance protocols in place during the COVID-19 pandemic. The commenter emphasized that increased use of VRI and VRS is likely to continue even after pandemic protocols are relaxed, especially in areas where there is limited access to on-site interpreters or a need for interpreters with a specialty. The commenter asserted that with rapid growth in technology and service provision across various settings, there is a need for adequate training and standardized practice for over video interpreting. Under *Application Requirements*, “Quality of Project Design,” paragraph (b), the commenter recommended that we require practice and training opportunities for interpreting in specialty areas that do not require physical touch to include both in-person and over video settings. The commenter shared that there is a shortage of skilled interpreters, which has a significant impact on the needs of VR consumers who are seeking and maintaining education, training, and

gainful employment. The commenter further explained that the lack of specialized training available creates a gap in skill and readiness for interpreters looking for VRS employment. The commenter also recommended adding a specialty area to the priority focused on VRS interpreting and training interpreters to use virtual and hybrid settings.

*Discussion:* We appreciate the comment and agree that the incorporation of Over Video (*i.e.*, VRI and VRS) services is an important aspect of interpreting. We also agree that video interpreting has seen a steep increase with physical distance protocols in place during the COVID–19 pandemic and that increased use of VRI and VRS is likely to continue even after the COVID–19 pandemic. However, we disagree with the recommendation that applicants should be required to include practice and training opportunities in Over Video settings. We believe applicants should have the option to determine what practice and training is necessary for their respective specialty area and may consider Over Video settings, as appropriate. Additionally, we acknowledge the recommendation to create a new specialty area focused on VRS interpreting. We believe this content area is more appropriate for Specialty Area (5) (field-initiated), under topic area (d) (other topics). As described in the priority, applicants under Specialty Area (5) must demonstrate the need for the training in a proposed new topic area or, in areas for which there is existing training, demonstrate that the existing training is not adequately meeting the needs of interpreters working in the field of VR.

*Changes:* None.

### **Cultural Competency Training, Outreach, and Recruitment of Interpreters From Multicultural Backgrounds**

*Comment:* The Department received a large number of comments focused on diversity, equity, and inclusion in the field of interpreter training. Commenters identified gaps, disparities, and inequities in the recruitment, education, training, testing, assessments, employment, and advancement of interpreters from minority backgrounds. Commenters reported that in 2018, 88 percent of interpreters certified by RID identified as White and only 3.6 percent identified as African American/Black. To expand the pool of qualified interpreters from diverse backgrounds, commenters recommended a new specialty area focused on the recruitment and training of interpreters from diverse backgrounds. Commenters

explained that linguistic research demonstrates that there are significant dialectical differences between Black ASL (BASL), indigenous varieties of ASL, and standard ASL, and that interpreters with novice to advanced skills need to be familiar with these variations. Another commenter noted that BASL is not the same as atypical language, although it is often misconstrued as such. Finally, commenters stated the importance of culture, values, and language within the field of interpreting and the necessity for individuals who are deaf, hard of hearing, and DeafBlind to have the option to work with interpreters who are of the same race or ethnicity as themselves and to increase representation of interpreters from traditionally underrepresented groups in the field. Commenters recommended the incorporation of a cultural competency training component within the priority. Commenters recommended that topics such as BASL, Black deaf culture, graduation rates of diverse interpreters, bias, and practices that support diversity be included in cultural competency training.

*Discussion:* The Department agrees that a new specialty area is needed to develop cultural competency training in the field. A new specialty area will increase the number of qualified interpreters from multicultural backgrounds so that individuals who are deaf, hard of hearing, and DeafBlind have access to a culturally competent, diverse, and qualified pool of interpreters. This recommended specialty area aligns with Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government” (86 FR 7009), issued January 20, 2021, which provides that affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government. It also provides that because advancing equity requires a systematic approach to embedding fairness in decision-making processes, Federal agencies must recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity. Further, this recommended specialty area recognizes the fact that, at present, a disproportionately high number of interpreters identify as Euro-American/White while the demographics of the deaf, hard of hearing, and DeafBlind individuals mirror that of the general population. This specialty area addresses the need for more diversity among interpreters in order to meet the

social, cultural, and linguistic needs of the deaf, hard of hearing, and DeafBlind individuals they serve.

Under this specialty area, projects may contain cultural competency training for interpreters at all skill levels and could include, for example, exploration of unconscious and conscious biases, privilege, stereotypes, prejudicial attitudes, and the dynamics of oppression on interpreters from multicultural backgrounds, as well as heritage and native signers; examination of microaggressions within the interpreter training field; and gaps, disparities, and inequities in the recruitment, education, training, testing, assessments, employment, and advancement of interpreters from minority backgrounds. The specialty area may also provide training to associate, bachelor’s, and advanced degree ASL-English interpreting programs to increase and support outreach and recruitment of interpreters from multicultural backgrounds. When preparing outreach and recruitment materials, selection criteria for training programs, and criteria for selecting trainers employed under the grant, applicants must cast a wide net for participants of all races and not preclude participation based on race, color, or national origin.

*Changes:* To adequately address the breadth and scope of comments received about diversity, equity, and inclusion in the field of interpreting, the Department is adding a specialty area under the final priority, titled Specialty Area (4) (cultural competency training, outreach, and recruitment of interpreters from multicultural backgrounds). We are also making revisions under *Application Requirements*, described elsewhere in the analysis of comments, to incorporate cultural competency under all specialty areas within the priority.

*Comment:* Many commenters described prevalent bias within the field of ASL interpreting and indicated a strong need to recognize and address implications of this bias through the priority. Commenters also explained the importance of promoting representation by exposing interpreters to trainers who are of the same race, ethnicity, and background as themselves.

*Discussion:* The Department agrees with the comments that it is important to expose interpreters to trainers who are of the same race, ethnicity, and background as themselves. We agree that it is of the utmost importance that all interpreter training projects funded through this priority take steps to eliminate barriers and reduce biases. Therefore, we believe it is necessary to

incorporate cultural competency into each of the respective specialty areas.

*Changes:* Under *Application Requirements*, “Quality of Project Design,” paragraph (b)(1), we are adding that applicants must consider cultural competency as it relates to their respective specialty area. Applicants must describe how training and accompanying materials developed for interpreting practice and application, especially video content, will include diverse and inclusive models and perspectives.

### National Certification

*Comment:* Two commenters highlighted the need for interpreters to be certified. One commenter strongly encouraged the Department to require the attainment of national certification as the minimum standard that all ASL interpreters should strive for. Another commenter noted that without certification it is difficult to guarantee the skillset of an interpreter.

*Discussion:* Part of the purpose of this program is to provide opportunities for interpreters to raise their skill level in order to meet the highest standards approved by certifying associations and to effectively meet the communication needs of individuals who are deaf, hard of hearing, and DeafBlind. In FFY 2016, the Department funded a national project to provide experiential learning to novice interpreters to successfully attain national certification and reduce the length of time between graduation and certification. More information about this project may be accessed through the Rehabilitation Services Administration’s NCRTM at [ncrtm.ed.gov](http://ncrtm.ed.gov). We also recognize that the specialty areas may not yet have certification in place or a relevant metric of success because they are new or in the early stages of development.

*Changes:* None.

### Technical Changes

*Comment:* None.

*Discussion:* Upon further review, the Department noted that it had included the definition of “remote learning” in the background section of the NPP but omitted it in the requirements.

*Changes:* We have added the definition of “remote learning” to the requirements where the term first appears, under “Quality of Project Services,” paragraph (b)(1) of the *Application Requirements*.

*Comment:* None.

*Discussion:* The Department is interested in exploring whether an induction experience contributed to greater or more robust outcomes for

working interpreters compared to those that did not complete an induction.

*Changes:* Under *Application Requirements*, “Quality of the Evaluation Plan,” paragraph (d)(3), we have added a requirement that applicants must describe an approach for measuring outcomes for participants that completed an induction compared to those who did not complete an induction prior to successfully completing the program.

*Comment:* None.

*Discussion:* Under *Application Requirements*, “Significance of the Proposed Project,” we identified duplication between paragraphs (a)(3)(i) and (ii) and made technical changes needed to improve clarity.

*Changes:* Under *Application Requirements*, “Significance of the Proposed Project,” we have combined paragraphs (a)(3)(i) and (ii) and made technical changes to reflect that applicants must describe the competencies working interpreters must demonstrate in order to provide high-quality services in the identified specialty area and explain how those competencies are based on practices that demonstrate a rationale or are supported by promising evidence.

*Comment:* None.

*Discussion:* We are adding an assurance statement to the application requirements to comply with 34 CFR 396.20(d), which requires an assurance that any interpreter trained or retrained under this program will meet the standards of competency for a qualified professional established by the Secretary.

*Changes:* Under *Application Requirements*, we have added paragraph (g)(3), which requires applicants to assure that any interpreter trained or retrained under this program will meet the standards of competency for a qualified professional, as defined in 34 CFR 396.4(c).

*Comment:* None.

*Discussion:* We inadvertently included the definition of “working interpreter” and listed the specialty areas in the background to the priority, rather than the text of the priority. We are moving those provisions into the priority, with the changes and clarifications discussed in this *Analysis of the Comments* section.

We are removing language about the project outcomes from the priority because we have modified and incorporated this data into the performance measures, which will be included in the NIA for this program. The performance measures accurately reflect the goals and purpose of this program and the priority, and therefore

additional outcome measures are no longer needed.

*Changes:* In the text of the final priority, we have added the revised definition of “working interpreter” and listed the specialty areas, including a new specialty area focused on cultural competency, outreach, and recruitment of interpreters from multicultural backgrounds. We have removed from the priority language about the project outcomes.

*Comment:* None.

*Discussion:* Based on the current and prior grant cycles, we have seen that participants benefit from gaining a foundational understanding of the VR program. Further, this information aligns with the purpose of the priority, which is to meet the communication needs of individuals who are deaf or hard of hearing and individuals who are DeafBlind receiving vocational rehabilitation (VR) services and/or services from other programs, such as independent living services, under the Rehabilitation Act.

*Changes:* Under *Application Requirements*, “Quality of Project Design,” paragraph (b)(1), we have added that training materials may include information to ensure participants have a foundational understanding of the VR program.

*Comment:* None.

*Discussion:* Under *Application Requirements*, “Quality of the Evaluation Plan,” paragraph (d)(4), we determined that the requirement to gather information from participants about their knowledge of VR can be satisfied under paragraph (d)(2), which requires an approach for measuring knowledge, skills, and competencies before and after successful completion of training. We also determined that paragraph (d)(4) needed to align more closely with the priority and the performance measures that will be included in the NIA for this program.

*Changes:* Under *Application Requirements*, “Quality of the Evaluation Plan,” paragraph (d)(4), we removed the requirement to gather information from participants about their knowledge of VR. We also modified paragraph (d)(4) to require an approach for gathering information from participants about their estimated percentage of workload interpreting for individuals who are deaf or hard of hearing and individuals who are DeafBlind receiving VR services and/or services from other programs, such as independent living services, before and after specialty training.

## Final Priority

### *Interpreter Training in Specialty Areas*

The purpose of this priority is to fund projects that provide training to working interpreters in one of five specialty areas to effectively meet the communication needs of individuals who are deaf or hard of hearing and individuals who are DeafBlind receiving vocational rehabilitation (VR) services and/or services from other programs, such as independent living services, under the Rehabilitation Act. For the purposes of this priority, working interpreters must possess a baccalaureate degree and a minimum of three years of relevant experience as an interpreter. On a case-by-case basis and in consultation with RSA, educational equivalence may be used in place of the baccalaureate degree.

The specialty areas are—

- (1) Increasing skills of novice interpreters;
- (2) Trilingual interpreting (including Spanish) (*i.e.*, language fluency in first, second, and third languages with one of the three languages being ASL);
- (3) Advanced skills for working interpreters;
- (4) Cultural competency training, outreach, and recruitment of interpreters from multicultural backgrounds; and
- (5) National projects in a field-initiated area, in topic areas such as—
  - (a) Interpreting in healthcare, including interpreting for hard-to-serve populations;
  - (b) Interpreting for individuals who are DeafBlind;
  - (c) Atypical language interpreting; and
  - (d) Other topics in new areas for which applicants demonstrate that the existing training is not adequately meeting the needs of interpreters working in the field of VR.

### *Types of Priorities*

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

**Absolute priority:** Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

**Competitive preference priority:** Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)), or (2) selecting

an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

**Invitational priority:** Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

### *Final Application Requirements*

The Assistant Secretary establishes the following requirements for this priority. We may apply these requirements in any year in which this priority is in effect.

### *Application Requirements*

The following application requirements apply to all specialty areas under this priority. The Department encourages innovative approaches to meet these requirements. Applicants must—

- (a) Demonstrate, in the narrative section of the application under “Significance of the Project,” how the proposed project will address the need for sign language interpreters in a specialty area. To address this requirement, applicants must—

- (1) Present applicable data demonstrating the need for interpreters in the specialty area for which training will be developed by the project and delivered in at least three distinct, noncontiguous geographic areas, which may include the U.S. Territories;

- (2) Present baseline data for the number or estimated number of working interpreters currently trained in the specialty area. In the event that an applicant proposes training in a new specialty area that does not currently exist or for which there are no baseline data, the applicant should provide an adequate explanation of the lack of reliable data and may report zero as a baseline; and

- (3) Describe the competencies that working interpreters must demonstrate in order to provide high-quality services in the identified specialty area and explain how those competencies are based on practices that demonstrate a rationale or are supported by promising evidence (as defined in 34 CFR 77.1).

- (b) Demonstrate, in the narrative section of the application under “Quality of Project Design,” how the proposed project will—

- (1) Develop a new training program or stand-alone modules and conduct a pilot by the end of the first year of the project. Applicants must provide justification in their application if they

believe additional time may be necessary to fully develop and pilot the curricula before the end of the first year. The training program or stand-alone modules must contain remote learning<sup>1</sup> experiences that advance engagement and learning (*e.g.*, synchronous and asynchronous professional learning, professional learning networks or communities, and coaching), which could also be incorporated into existing associate, baccalaureate, or graduate degree ASL-English (or ASL-other spoken language) programs, as appropriate. The remote learning environment must be accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, as applicable. Applicants may choose to award continuing education credits (CEUs) or college or master’s level credits to participants in the training program. Applicants should note that while pre-service training is not the focus of this program, a variety of resources may be considered (such as available pre-service training material) that may inform, support, or strengthen the development of training for ASL-English interpreter training in specialized areas. Training materials may include information to ensure participants have a foundational understanding of the VR program. Finally, applicants must consider cultural competency as it relates to their respective specialty area. Applicants must describe how training and accompanying materials developed for interpreting practice and application, especially video content, will include diverse and inclusive models and perspectives;

- (2) Deliver the training or stand-alone modules remotely to at least three distinct, noncontiguous geographic areas identified in paragraph (a)(1) of these application requirements in years two, three, four, and five of the project. Applicants may deliver in-person training, as appropriate, to support participants’ application of knowledge, skills, and competencies gained through online training. Applicants may decide when to safely offer in-person training and must be prepared to pivot between in-person and remote learning during the project, as needed, throughout the duration of the COVID–19 pandemic;

<sup>1</sup> Remote learning means programming where at least part of the learning occurs away from the physical building in a manner that addresses a learner’s educational needs. Remote learning may include online, hybrid/blended learning, or non-technology-based learning (*e.g.*, lab kits, project supplies, paper packets).

(3) Provide skilled, diverse, and experienced leaders, mentors, facilitators, coaches, and subject matter experts, as appropriate for the specialty area, to participants, as needed. This may include, but is not limited to, one-on-one instruction to address specific areas identified by an advisor as needing further practice, and providing written feedback from observed interpreting situations and mentoring sessions, from deaf consumers, from trained mentors, and from others, as appropriate;

(4) Develop a self-directed track and make it available to the public for independent remote learning by the end of the second year of the project. Applicants must develop a curriculum guide for each module and make available relevant materials from the training program. Applicants may offer CEUs to participants who successfully complete the self-directed track;

(5) Be based on current research and make use of practices that demonstrate a rationale or are supported by promising evidence. To meet this requirement, applicants must describe—

(i) How the proposed project will incorporate current research and practices that demonstrate a rationale or are supported by promising evidence in the development and delivery of training and in the development of products and materials;

(ii) How the proposed project will ensure interaction between project participants and individuals with disabilities who are deaf, hard of hearing, and DeafBlind and have a range of communication skills, from those with limited language skills to those with high-level, professional language skills, as appropriate.

(c) In the narrative section of the application under “Quality of Project Services,” applicants must—

(1) Demonstrate how the project will ensure equal access and treatment for eligible project participants who are members of groups who have traditionally been underrepresented based on race, color, national origin, gender, age, or disability;

(2) Describe the criteria that will be used to identify applicants for participation in the program, including any pre-assessments that may be used to determine the skill, knowledge base, and competencies of the working interpreter;

(3) Describe how the project will conduct outreach<sup>2</sup> to working

interpreters, especially working interpreters from rural areas, Indian Tribes, traditionally underrepresented groups, and individuals who come from heritage signing, deaf, and CODA backgrounds;

(4) Describe how the project will provide feedback, resources, and next steps to applicants who may not be accepted into the program due to insufficient skills, knowledge base, and competencies;

(5) Describe how the program will identify skilled, diverse, and experienced leaders, mentors, facilitators, coaches, and subject matter experts, as appropriate for the specialty area, and develop necessary training for them to improve and enhance interpreting skills in their respective areas, as well as in remote delivery, as needed. Applicants must also describe how they will grow the pool of experienced personnel and create opportunities for participants to advance as mentors, coaches, and facilitators in the program;

(6) Describe the approach that will be used to enable more working interpreters to participate in and successfully complete the training program, specifically participants who need to work while in the program, have child care or elder care considerations, or live in geographically isolated areas;

(7) Describe how the project will incorporate adult learning principles and practices that demonstrate a rationale or are supported by promising evidence for adult learners;

(8) Demonstrate how the project is of sufficient scope, intensity, and duration to adequately prepare working interpreters in the identified specialty area of training. To address this requirement, applicants must describe how—

(i) The components of the proposed project will support working interpreters’ acquisition and enhancement of the competencies identified in paragraph (a)(2)(i) of these application requirements;

(ii) The components of the project will provide working interpreters opportunities to apply their content knowledge in a variety of practical settings;

(iii) The proposed project will establish induction experiences in the specialty area for participants as a requirement for completion in the training program, to the extent possible. The induction environment must be designed in such a way that meets the

communication preferences of individuals who are deaf, hard of hearing, and DeafBlind. Applicants must be prepared to pivot between in-person and remote inductions during the project, as needed, throughout the duration of the COVID-19 pandemic. The number of participants completing inductions may be based on availability of opportunities and trained personnel necessary to support them. Applicants may determine the appropriate scope and length of time for the induction and must work to increase the availability of inductions in their respective specialty area, where possible;

(9) Demonstrate how the proposed project will actively engage representation from consumers, consumer organizations, and service providers, especially State VR agencies and their partners, interpreters, interpreter educators, and individuals who are deaf, hard of hearing, and DeafBlind, in all aspects of the project; and

(10) Describe how the project will conduct dissemination, coordination, and communication activities. To meet this requirement, the applicant must describe how it will—

(i) Disseminate information to working interpreters about training available in specialized areas and to State VR agencies and their partners, American Job Centers, and other workforce partners about how to locate specialized interpreters in their State and local areas;

(ii) Establish a state-of-the-art website or modify an existing website for communicating with participants and stakeholders and ensure that all material developed by the grant and posted on the website are accessible to individuals with disabilities in accordance with section 504 of the Rehabilitation Act and title II of the Americans with Disabilities Act, as applicable. The website must provide a central location for all material related to the project, such as reports, training curricula, audiovisual materials, webinars, communities of practice, and other relevant material developed by the grantee;

(iii) Disseminate information about the project, including, but not limited to, products such as training curricula, presentations, reports, effective practices for training working interpreters in specialized areas, and other relevant information through the NCRTM;

(iv) In the final year of the budget period, ensure that all training materials have been provided to the NCRTM and the website and IT platform can be

<sup>2</sup> When preparing outreach and recruitment materials, selection criteria for training programs, as well as criteria for selecting trainers employed under the grant, applicants must cast a wide net for

participants of all races and not preclude participation based on race, color, or national origin.

sustained, or coordinate with RSA to transition the website to the NCRTM;

(v) Establish one or more communities of practice in the specialty area of training that focuses on project activities and acts as a vehicle for communication and exchange of information among participants in the program and other relevant stakeholders;

(vi) Communicate, collaborate, and coordinate with other relevant Department-funded projects, as applicable;

(vii) Maintain ongoing communication with the RSA project officer and other RSA staff as required;

(viii) Communicate, collaborate, and coordinate, as appropriate, with key staff in State VR agencies, such as the State Coordinators for the Deaf; State and local partner programs; consumer organizations and associations, including those that represent individuals who are deaf, hard of hearing, and DeafBlind; and relevant RSA partner organizations and associations; and

(ix) Disseminate to associate, baccalaureate, or graduate degree ASL-English programs, as well as to relevant Department-funded programs and Federal partners, as applicable, the training material and products for incorporation into existing curricula, as well as products, effective practices for training working interpreters in specialized areas, challenges and solutions, results achieved, and lessons learned. To satisfy this requirement, the grantee must develop participant guides, implementation materials, toolkits, manuals, and other relevant material for interpreter educators and others, as appropriate, to incorporate or build into existing programs.

(d) In the narrative section of the application under "Quality of the Evaluation Plan," include an evaluation plan. To meet this requirement, the evaluation plan must describe—

(1) Standards and targets for measuring the effectiveness of the program;

(2) An approach for measuring knowledge, skills, and competencies before and after successful completion of training;

(3) An approach for measuring outcomes for participants that completed an induction compared to those who did not prior to successfully completing the program;

(4) An approach for gathering information from participants about their estimated percentage of workload interpreting for individuals who are deaf or hard of hearing and individuals who are DeafBlind receiving VR services

and/or services from other programs, such as independent living services, before and after specialty training;

(5) An approach for incorporating oral and written feedback from trainers and deaf consumers and any feedback from coaching or mentoring sessions conducted with the participants;

(6) Methodologies, including instruments, data collection methods, and analyses that will be used to evaluate the project and how the methods of evaluation will produce quantitative and qualitative data to demonstrate whether the project activities achieved their intended outcomes;

(7) Measures of progress in implementation, including the extent to which the project activities and products have reached their intended recipients, measures of intended outcomes or results in order to evaluate those activities, and how well the goals and objectives of the proposed project, as described in the logic model (as defined in 34 CFR 77.1), have been met;

(8) How the evaluation will be coordinated, implemented, and revised, as needed, during the project. The applicant must designate at least one individual with sufficient dedicated time, demonstrated experience in evaluation, and knowledge of the project to coordinate and conduct the evaluation. This may include, but is not limited to, making revisions post award in order to reflect any changes or clarifications, as needed, to the model and to the evaluation design and instrumentation with the logic model (e.g., designing instruments and developing quantitative or qualitative data collections that permit collecting of progress data and assessing project outcomes); and

(9) How evaluation results will be used to examine the effectiveness of the training. To address this requirement, applicants must provide an approach for determining—

(i) What practice(s) was most effective in training working interpreters in the respective specialty area and what data demonstrates the practice(s) was effective; and

(ii) What practice(s) was most effective in narrowing working interpreters' skill gaps and what data demonstrates the practice(s) was effective.

(e) Demonstrate, in the narrative section of the application under "Adequacy of Project Resources," how—

(1) The proposed project will encourage applications for employment with the project from persons who are members of groups that have

historically been underrepresented based on race, color, national origin, gender, age, or disability;

(2) Describe any proposed consultants or contractors named in the application and their areas of expertise and provide a rationale to demonstrate the need;

(3) Describe costs associated with technology, including, but not limited to, maintaining an online learning platform, state-of-the-art archiving and dissemination platform, and communication tools (i.e., Microsoft Teams, Zoom, Google, Amazon Chime, Skype, etc.), ensuring all products and services are accessible to individuals with disabilities in accordance with section 504 of the Rehabilitation Act and title II of the Americans with Disabilities Act, as applicable, including costs associated with captioning and transcription services, and cybersecurity; and

(4) The applicant and any identified partners have adequate resources to carry out the proposed activities.

(f) Demonstrate, in the narrative section of the application under "Quality of the Management Plan," how applicants will ensure that—

(1) The project's intended outcomes, including the evaluation, will be achieved on time and within budget, through—

(i) Clearly defined responsibilities of key project personnel, consultants, and contractors, as applicable;

(ii) Procedures to track and ensure completion of the action steps, timelines, and milestones established for key project activities, requirements, and deliverables;

(iii) Internal monitoring processes to ensure that the project is being implemented in accordance with the established application and project plan; and

(iv) Internal financial management controls to ensure accurate and timely obligations, drawdowns, and reporting of grant funds, as well as monitoring contracts, in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200 and the terms and conditions of the Federal award.

(2) The allocation of key project personnel, consultants, and contractors, as applicable, including levels of effort of key personnel that are appropriate and adequate to achieve the project's intended outcomes, including an assurance that key personnel will have enough availability to ensure timely communications with stakeholders and RSA;

(3) The products and services are of high quality, relevance, and usefulness, in both content and delivery;

(4) The proposed project will benefit from a diversity of perspectives; and

(5) Projects will be awarded and must be operated in a manner consistent with nondiscrimination requirements contained in the Federal civil rights laws.

(g) Address the following application requirements. Applicants must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and short and long-term outcomes of the proposed project;

(2) Include, in Appendix A, person-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative; and

(3) Provide an assurance that any interpreters trained or retrained under this program will meet the standards of competency for a qualified professional, defined in 34 CFR 396.4(c) as an individual who has: (i) Met existing certification or evaluation requirements equivalent to the highest standards approved by certifying associations; and (ii) successfully demonstrated interpreting skills that reflect the highest standards approved by certifying associations through prior work experience.

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

*Note:* This document does *not* solicit applications. In any year in which we choose to use this priority or these requirements we invite applications through a notice in the **Federal Register**.

#### Executive Orders 12866 and 13563

##### *Regulatory Impact Analysis*

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an “economically significant” rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing this final priority and requirements only on a reasoned determination that their benefits justify their costs. In choosing among

alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

*Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

##### *Regulatory Flexibility Act*

*Certification:* The Secretary certifies that this regulatory action does not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this final regulatory action will affect, that is, public and private nonprofit agencies and organizations including institutions of higher education, are eligible for assistance under this program. We believe that the costs imposed on an applicant by the final priority and requirements would be limited to paperwork burden related to preparing an application and that the benefits of the final priority and requirements would outweigh any costs incurred by the applicant. There are very few

entities that could provide the type of technical assistance required under the final priority and requirements. For these reasons, the final priority and requirements will not impose a significant burden on a substantial number of small entities.

*Paperwork Reduction Act of 1995:* The priority and requirements contain information collection requirements that are approved by OMB under OMB control number 1820-0018; the priority and requirements do not affect the currently approved data collection.

*Accessible Format:* On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,

Acting Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2021-15915 Filed 7-22-21; 4:15 pm]

BILLING CODE 4000-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2021-0332; FRL-8717-02-R7]

### Air Plan Approval; Missouri; Removal of Control of Emissions From the Application of Deadeners and Adhesives

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Missouri State Implementation Plan (SIP) submitted by the State of Missouri on January 15, 2019, and supplemented by letter on July 11, 2019. Missouri requests that the EPA remove a rule related to control of emissions from the application of deadeners and adhesives in the St. Louis, Missouri area from its SIP. This rescission does not have an adverse effect on air quality and meets the requirements of the Clean Air Act (CAA). The EPA's approval of this rule revision is in accordance with the requirements of the CAA.

**DATES:** This final rule is effective on August 25, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2021-0332. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Ashley Keas, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7629; email address: [keas.ashley@epa.gov](mailto:keas.ashley@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” refer to the EPA.

### Table of Contents

- I. What is being addressed in this document?
- II. Have the requirements for approval of a SIP revision been met?
- III. What action is the EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

### I. What is being addressed in this document?

The EPA is approving the removal of 10 Code of State Regulations (CSR) 10-5.370, *Control of Emissions from the Application of Deadeners and Adhesives*, from the Missouri SIP. As explained in detail in the EPA's proposed rule, Missouri has

demonstrated that removal of 10 CSR 10-5.370 will not interfere with attainment of the National Ambient Air Quality Standards (NAAQS), reasonable further progress or any other applicable requirement of the CAA because the single source subject to the rule has permanently ceased operations and removal of the rule will not cause VOC emissions to increase. 86 FR 26450, May 14, 2021. The public comment period on the EPA's proposed rule opened May 14, 2021, the date of its publication in the **Federal Register** and closed on June 14, 2021. During this period, the EPA received no comments. Therefore the EPA is finalizing its proposal to remove 10 CSR 10-5.370 from the Missouri SIP.

### II. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V.

The State provided public notice on this SIP revision from June 25, 2018, to August 2, 2018, and held a public hearing on July 26, 2018. Missouri received five comments from the EPA that related to Missouri's lack of an adequate demonstration that the rule could be removed from the SIP in accordance with section 110(l) of the CAA. Missouri's July 11, 2019 letter addressed the EPA's comments. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

### III. What action is the EPA taking?

The EPA is taking final action to approve Missouri's request to remove 10 CSR 10-5.370 from the SIP.

### IV. Incorporation by Reference

In this document, the EPA is amending regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions of the EPA-Approved Missouri Regulations from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices,

provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and

- Does not cause disproportionate human health or environmental effects, as applicable under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the

purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 19, 2021.

**Edward H. Chu,**

*Acting Regional Administrator, Region 7.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart AA—Missouri

##### § 52.1320 [Amended]

- 2. In § 52.1320, the table in paragraph (c) is amended by removing the entry “10–5.370” under the heading “Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area”.

[FR Doc. 2021–15724 Filed 7–23–21; 8:45 am]

**BILLING CODE 6560–50–P**

# Proposed Rules

Federal Register

Vol. 86, No. 140

Monday, July 26, 2021

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 2 and 171

[NRC–2014–0264]

RIN 3150–AJ51

### Receipts-Based NRC Size Standards

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its small business size standards, which are used to qualify an NRC licensee as a “small entity” under the Regulatory Flexibility Act of 1980, as amended (RFA). The purpose of these size standards is for reducing annual NRC license fees for small entities. These standards do not apply to NRC contracting for goods and services. The NRC is proposing to increase the upper and lower tiers for its receipts-based small entity size standards for small businesses and small not-for-profit organizations. This change will allow NRC standards to remain consistent with the inflation adjustments made by the Small Business Administration (SBA) size standard for nonmanufacturing concerns. In addition, in accordance with the Small Business Runway Extension Act of 2018 (Runway Act), the NRC is proposing to change the calculation of annual average receipts for the receipts-based NRC size standard for small businesses that provide a service or small businesses not engaged in manufacturing from a 3-year averaging period to a 5-year averaging period. The public is invited to submit comments on this proposed rule.

**DATES:** Submit comments by August 25, 2021. Comments received after this date will be considered if it is practical to do so, but the NRC is only able to ensure consideration for comments received before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal Rulemaking website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2014–0264. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

- **Email comments to:** [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Jo A. Jacobs, Office of the Chief Financial Officer, telephone: 301–415–8388; email: [Jo.Jacobs@nrc.gov](mailto:Jo.Jacobs@nrc.gov); or Billy Blaney, Office of the Chief Financial Officer, telephone: 301–415–5092; email: [William.Blaney@nrc.gov](mailto:William.Blaney@nrc.gov). Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Obtaining Information and Submitting Comments
- II. Background
- III. Discussion
- IV. Regulatory Flexibility Certification
- V. Regulatory Analysis
- VI. Backfitting and Issue Finality
- VII. Plain Writing
- VIII. National Environmental Policy Act
- IX. Paperwork Reduction Act
- X. Voluntary Consensus Standards
- XI. Availability of Guidance
- XII. Availability of Documents

#### I. Obtaining Information and Submitting Comments

##### A. Obtaining Information

Please refer to Docket ID NRC–2014–0264 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2014–0264.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced. For the convenience of the reader, the ADAMS accession numbers are also provided in Section XIII, “Availability of Documents,” of this document.

- **Attention:** The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to PDR staff via email at [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov) or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

##### B. Submitting Comments

Please include Docket ID NRC–2014–0264 in the subject line of your comment submission in order to ensure that the NRC is able to make your comment submission publicly available in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at <https://www.regulations.gov> as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, you should inform those persons not to include identifying or contact information they do not want to be publicly disclosed in their comment submissions. Your request should state the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to

the public or entering the comment submissions into ADAMS.

## II. Background

The NRC's current size standards are provided under part 2 of title 10 of the *Code of Federal Regulations* (10 CFR), "Agency Rules of Practice and Procedure," in § 2.810, "NRC size standards," which were established on December 9, 1985, when implementing the requirements of the RFA (50 FR 50241). The RFA requires agencies to consider the impact of rulemaking on small entities and, consistent with applicable statutes, study alternatives to minimize these impacts on applicable businesses, organizations, and government jurisdictions. The NRC's regulations in § 2.810 and 10 CFR part 171, "Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC," contain the criteria, in § 171.16(a) and (c), "Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC," that certain licensees use to qualify as small entities for the purpose of reducing annual license fees only.

The NRC's current size standards under § 2.810 are based on the SBA's receipts-based size standards for small businesses and small not-for-profit organizations, employee-based size standards for business concerns that are manufacturing and for small educational institutions that are not State or publicly supported entities, and population-based size standards for small governmental jurisdictions.

In establishing the Fiscal Year (FY) 1991 fee rule, the NRC determined that the annual fees would have a significant impact on a substantial number of small material licensees. As a result, the NRC established a small entity fee tier in § 171.16(c), which resulted in a subsidy program whereby small entities would pay a reduced annual fee (56 FR 31507; July 10, 1991). In FY 1992, the NRC established a second tier in § 171.16(c) to benefit the licensees that were very small entities. Pursuant to § 171.16(c), if a licensee qualifies as a small entity and provides the Commission with the proper certification, the licensee may pay a reduced annual fee. As part of the certification process, a licensee that meets the NRC's size standards for a small entity must complete NRC Form 526, "Certification of Small Entity

Status for the Purposes of Annual Fees," certifying that it meets the NRC's size standards for a small entity.

The last revision, an inflationary adjustment, to the receipts-based size standards in §§ 2.810 and 171.16(c) was in a rule published in the **Federal Register** on July 3, 2012 (77 FR 39385) and in the FY 2013 final fee rule published in the **Federal Register** on July 1, 2013 (78 FR 39479), respectively. More recently, in FY 2020, the NRC surveyed its materials licensees to help determine whether to change the size standards in § 2.810 (85 FR 6225; February 4, 2020). With the exception of inflation-related increases and adjusting the methodology for calculating average gross-receipts to be consistent with the Runway Act and SBA regulations, the survey results did not suggest that the NRC should change its small entity size standards.

The Runway Act amended section 3(a)(2)(C)(ii)(II) of the Small Business Act (15 U.S.C. 632(a)(2)(C)(ii)(II)), to modify the requirements for the small business size standards prescribed by an agency without separate statutory authority to issue size standards. Subsequently, on December 5, 2019, the SBA published a final rule modifying its method for calculating average annual receipts used to prescribe size standards for small businesses (84 FR 66561). As a result, and because of the proposed inflationary adjustments described more fully in the "Discussion" section of this document, the NRC must revise its receipts-based size standards from a 3-year averaging period to a 5-year averaging period to comply with the Runway Act.

In order to amend § 2.810, the NRC must follow the procedures of the Small Business Act, and SBA's implementing regulations in 13 CFR 121.903, "How may an agency use size standards for its programs that are different than those established by SBA?," because it does not have separate statutory authority to issue size standards.

## III. Discussion

The NRC is proposing to amend § 2.810 to increase the receipts-based small entity size standard from \$7.0 million to \$8.0 million for small businesses and small, not-for-profit organizations. These proposed amendments are to remain consistent with inflation adjustments made by the SBA to its size standard for nonmanufacturing concerns. Most recently, the SBA adjusted this standard for inflation on July 18, 2019 (84 FR 34261). In addition, the NRC is also proposing to amend the average gross-receipts calculation process to change

from a 3-year averaging period to a 5-year averaging period, as required by SBA regulations and in response to the Runway Act.

Further, and analogous to the proposed inflation adjustment in § 2.810, the NRC is proposing to amend § 171.16(c) to increase the upper tier receipts-based small entity size standard from \$7.0 million to \$8.0 million for small businesses and small, not-for-profit organizations. Likewise, the NRC is proposing to increase the lower tier receipts-based size standard from \$485,000 to \$555,000, based upon the percent change in the upper tier.

## IV. Regulatory Flexibility Certification

Under the RFA, the Commission certifies that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This proposed rule is administrative in that this proposed rule will revise the criteria in 10 CFR parts 2 and 171 that the NRC uses to determine which of its licensees qualify as small entities for the purposes of compliance with the RFA. The proposed amendments to the size standards conform to the SBA's revised standard and is expected to result in an increase in the number of NRC licensees that qualify as small entities.

## V. Regulatory Analysis

The RFA requires agencies to consider the impact of rulemaking on small entities and, consistent with applicable statutes, study alternatives to minimize the impacts on applicable businesses, organizations, and government jurisdictions. In previous rulemakings to amend its size standards, the NRC has adjusted the criteria that the NRC uses to determine which of its licensees qualify as small entities for the purposes of compliance with the RFA.

For the NRC's size standards, rulemaking is required to amend the methodology for calculating average gross-receipts and the upper and lower tier receipts-based size standards to reflect inflationary adjustments. Because the last revision, an inflationary adjustment, to the receipts-based size standards in §§ 2.810 and 171.16(c) was in 2012 and 2013, respectively, this proposed rule includes inflationary adjustments to the receipts-based size standards. This proposed rule would amend §§ 2.810 and 171.16(c) to increase the NRC's upper tier receipts-based size standard from \$7.0 million to \$8.0 million for small businesses and small not-for-profit organizations, in order to remain consistent with the inflation adjustments made in the SBA's size standard for nonmanufacturing. In

addition, the proposed rulemaking would amend § 171.16(c) to increase the lower tier receipts-based size standard from \$485,000 to \$555,000, based upon the percentage change in the upper tier. Furthermore, for consistency with the Runway Act and SBA regulations, the NRC is amending its methodology for calculating the average gross-receipts from a 3-year averaging period to a 5-year averaging period.

The NRC estimates that the proposed rule would provide the following benefits and costs:

#### *Benefits*

- This action would result in continued compliance with the RFA, since the proposed rule would reduce the impact of annual fees on small entities by increasing the receipts-based size standards in § 2.810 and the tiers in § 171.16(c) that licensees use to qualify as small entities.

- While it is not certain how many licensees would qualify as small entities under the receipts-based size standards that is adjusted for inflation, the staff estimates that 95 additional licensees (a 12-percent increase) would qualify as small entities and be eligible to pay a reduced annual fee.

- The licensees can have increased regulatory confidence that the NRC has amended the agency's receipts-based size standards to be consistent with the SBA's practices, and that staff would review the current size standards and determine whether proposed amendments are needed every 5 years or sooner based on the SBA's adjustments.

#### *Costs*

- The cost impact of changing the average gross-receipts from a 3-year averaging period to a 5-year averaging period is not known, as the average gross-receipts have been based on a 3-year averaging period since the NRC established its size standards in 1985. Every licensee would likely need to expend some effort to evaluate its gross-receipts and may need to provide additional information if questions arise during the staff's certification review. Modifying to a 5-year averaging period of gross-receipts may result in a negative impact in that some licensees that are close to the upper limit of their size standard could lose their small entity status, while others may newly qualify as small entities. Despite this cost, since the NRC is proposing to amend the receipts-based size standards for

inflationary adjustments, the NRC is required pursuant to the Runway Act to amend the average gross-receipts from a 3-year averaging period to a 5-year averaging period.

- The expected increase in additional licensees qualifying as small entities could possibly increase the NRC's net budget authority as a result of additional licensees qualifying as small entities.

The results of the regulatory analysis are cost-justified because the proposed rule would result in an estimated 95 additional licensees (a 12-percent increase) who would qualify as small entities and be eligible to pay a reduced annual fee and the identified cost impacts are small. The NRC did not identify any other alternatives to amend the receipts-based size standards under § 2.810, which are consistent with the adjustments made by the SBA. In addition, the NRC did not identify any alternatives to rulemaking to amend the upper and lower tiers under § 171.16(c) to reflect inflationary adjustments.

#### **VI. Backfitting and Issue Finality**

The NRC has determined that the backfit rule, §§ 50.109, 70.76, 72.62, and 76.76 and the issue finality provisions in 10 CFR part 52 do not apply to this proposed rule and that an analysis is not required because these amendments do not require the modification of, or addition to, (1) systems, structures, components, or the design of a facility; (2) the design approval or manufacturing license for a facility; or (3) the procedures or organization required to design, construct, or operate a facility.

#### **VII. Plain Writing**

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC wrote this document to be consistent with the Plain Writing Act, as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885). The NRC requests comment on the clarity and effectiveness of the language used in this proposed rule.

#### **VIII. National Environmental Policy Act**

The NRC has determined that this proposed rule is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor environmental

assessment has been prepared for this proposed rule.

#### **IX. Paperwork Reduction Act**

This proposed rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Act.

#### **Public Protection Notification**

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

#### **X. Voluntary Consensus Standards**

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the action does not constitute the establishment of a standard that contains generally applicable requirements.

#### **XI. Availability of Guidance**

The NRC publishes a fee guidance document for small entities annually in conjunction with the NRC's annual rule to revise its fee schedules. The “Small Entity Compliance Guide” is designed to assist businesses, organizations, educational institutions, and governmental jurisdictions in determining whether they qualify as small entities by providing the qualifying factors that make up the NRC's definition of “small entity,” and the current small entity fees. The NRC will update the compliance guide each year when issuing the final fee rule and to align with the fee schedule of that year. Most recently, the NRC prepared the Small Entity Compliance Guide for the FY 2021 proposed fee rule. This compliance guide is available as indicated in Section XII, Availability of Documents, of this document.

#### **XII. Availability of Documents**

Documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No./web link/Federal Register citation
NRC Size Standard for Making Determinations Required by the Regulatory Flexibility Act of 1980 (December 9, 1985).	50 FR 20913.
NRC Form 526, "Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171".	<a href="https://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf">https://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf</a> .
FY 2021 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide .....	ML21105A750.
Public Law (Pub. L.) 115–324, "Small Business Runway Extension Act of 2018" .....	<a href="https://www.congress.gov/115/plaws/publ324/PLAW-115publ324.pdf">https://www.congress.gov/115/plaws/publ324/PLAW-115publ324.pdf</a> .
Receipts-Based, Small Business Size Standard; Direct Final Rule (July 3, 2012) .....	77 FR 39385.
Revision of Fee Schedules; Fee Recovery for Fiscal Year 2013 (July 1, 2013) .....	78 FR 39479.
Small Business Size Standards: Calculation of Annual Average Receipts; Final Rule (December 5, 2019).	84 FR 66561.

Throughout the development of this proposed rule, the NRC may post documents related to this proposed rule, including public comments, on the Federal rulemaking website at <https://www.regulations.gov> under Docket ID NRC–2014–0264.

## List of Subjects

### 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information, Environmental protection, Freedom of information, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

### 10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is proposing to amend 10 CFR parts 2 and 171 as follows:

## PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE

- 1. The authority citation for part 2 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552, 553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note.

Section 2.205(j) also issued under 28 U.S.C. 2461 note.

- 2. In § 2.810, revise paragraphs (a)(1) and (b) to read as follows:

### § 2.810 NRC Size Standards.

\* \* \* \* \*

#### (a) \* \* \*

(1) Concern that provides a service or a concern not engaged in manufacturing with average gross receipts of \$8.0 million or less over its last 5 completed fiscal years; or

\* \* \* \* \*

(b) A small organization is a not-for-profit organization which is independently owned and operated and has annual gross receipts of \$8.0 million or less.

\* \* \* \* \*

## PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

- 3. The authority citation for part 171 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 44 U.S.C. 3504 note.

- 4. In § 171.16, revise paragraph (c) to read as follows:

**§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.**

\* \* \* \* \*

(c) A licensee who is required to pay an annual fee under this section, in addition to 10 CFR part 72 licenses, may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in table 1 to this paragraph (c). Failure to file a small entity certification in a timely manner could result in the receipt of a delinquent invoice requesting the outstanding balance due and/or denial of any refund that might otherwise be due. The small entity fees are as follows:

TABLE 1 TO PARAGRAPH (c)

NRC small entity classification	Maximum annual fee per licensed category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over the last 5 completed fiscal years):	
\$555,000 to \$8 million .....	\$4,900
Less than \$555,000 .....	1,000
Small Not-For-Profit Organizations (Annual Gross Receipts):	

TABLE 1 TO PARAGRAPH (c)—Continued

NRC small entity classification	Maximum annual fee per licensed category
\$555,000 to \$8 million .....	4,900
Less than \$555,000 .....	1,000
Manufacturing Entities that Have An Average of 500 Employees or Fewer:	
35 to 500 employees .....	4,900
Fewer than 35 employees .....	1,000
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 49,999 .....	4,900
Fewer than 20,000 .....	1,000
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer:	
35 to 500 employees .....	4,900
Fewer than 35 employees .....	1,000

\* \* \* \* \*

Dated: July 1, 2021.

For the Nuclear Regulatory Commission.

**Cherish K. Johnson,**  
*Chief Financial Officer.*

[FR Doc. 2021-15506 Filed 7-23-21; 8:45 am]

BILLING CODE 7590-01-P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2021-0579; Project  
 Identifier MCAI-2020-00267-R]

RIN 2120-AA64

**Airworthiness Directives; Leonardo  
 S.p.a. Helicopters**

**AGENCY:** Federal Aviation  
 Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking  
 (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Leonardo S.p.a. (Leonardo) Model AB139 and AW139 helicopters. This proposed AD was prompted by a report of several occurrences of a cracked main gearbox (MGB) spherical bearing lock nut (lock nut). This proposed AD would require removing from service a certain part-numbered MGB lock nut that is installed on certain part-numbered MGBs and replacing it with newly designed MGB lock nut. This proposed AD would also would prohibit installing any MGB with the affected MGB lock nut and would prohibit installing any affected MGB lock nut on any helicopter. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by September 9, 2021.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to <https://www.regulations.gov>. Follow the online instructions for sending your comments electronically.

- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

- *Hand Delivery:* Deliver to the Mail address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39-0331-225074; fax +39-0331-229046; or at <https://customerportal.leonardocompany.com/en-US/>. You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110.

**Examining the AD Docket**

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0579; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Rao Edupuganti, Aerospace Engineer, Dynamic Systems Section, Technical Innovation Policy Branch, Policy &

Innovation Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222-5110; email [rao.edupuganti@faa.gov](mailto:rao.edupuganti@faa.gov).

**SUPPLEMENTARY INFORMATION:****Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2021-0579; Project Identifier MCAI-2020-00267-R" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to <http://www.regulations.gov>, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI

as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Rao Edupuganti, Aerospace Engineer, Dynamic Systems Section, Technical Innovation Policy Branch, Policy & Innovation Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222-5110; email [rao.edupuganti@faa.gov](mailto:rao.edupuganti@faa.gov). Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

### Background

EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD 2019-0036, dated February 15, 2019 (EASA AD 2019-0036), to correct an unsafe condition for all serial-numbered Leonardo S.p.a. Helicopters (formerly Finmeccanica S.p.A., AgustaWestland S.p.A., Agusta S.p.A.; and AgustaWestland Philadelphia Corporation, formerly Agusta Aerospace Corporation) Model AB139 and AW139 helicopters. EASA advises that an occurrence was reported of a cracked MGB lock nut part number (P/N) 3G6310A09151, which is used to keep the planetary gears in position. EASA AD 2019-0036 required replacing each MGB lock nut with an airworthy MGB lock nut. EASA advised this condition, if not detected and corrected, could lead to failure of the MGB planetary gears, resulting in loss of control of the helicopter.

After EASA issued EASA AD 2019-0036, an additional occurrence was reported of a cracked MGB lock nut P/N 3G6320A09151. Accordingly, EASA superseded EASA AD 2019-0036 with EASA AD 2019-0174, dated July 18, 2019 (EASA AD 2019-0174), which retained the requirements of EASA AD 2019-0036 but reduced the compliance times. After EASA issued EASA AD 2019-0174, Leonardo Helicopters issued Alert Service Bulletin (ASB) No. 139-609, dated December 18, 2019 to provide instructions for replacing the affected MGB lock nut with MGB lock nut P/N 3G6320A09152, which has a redesigned flange reducing the stress at the bearing nut locations where cracks were detected.

Accordingly, EASA then issued EASA AD 2020-0011, dated January 29, 2020, and corrected January 30, 2020 (EASA AD 2020-0011), which superseded EASA AD 2019-0174, and partially retained the requirements of EASA AD 2019-0174. EASA AD 2020-0011 revised the compliance times in EASA

AD 2019-0174; required replacing each affected MGB lock nut with a newly designed MGB lock nut and prohibited installing an affected MGB on any helicopter. After EASA issued EASA AD 2020-0011, EASA identified that certain MGB part numbers were inadvertently categorized incorrectly and therefore listed in the wrong group of helicopters. Accordingly, EASA issued EASA AD 2020-0011R1, dated November 20, 2020 (EASA AD 2020-011R1), revising EASA AD 2020-0011. EASA AD 2020-0011R1 retains the requirements of EASA AD 2020-0011 and corrects Appendix 1 of EASA AD 2020-0011.

After EASA issued EASA AD 2020-0011R1, Leonardo Helicopters issued ASB No. 139-609, Revision A, dated April 13, 2021 (ASB 139-609 Rev A), which identifies an additional part-numbered MGB, which is also affected by the unsafe condition. Accordingly, EASA superseded EASA AD 2020-0011R1 with EASA AD 2021-0121, dated May 4, 2021 (EASA AD 2021-0121). EASA AD 2021-0121 adds an additional part-numbered MGB with a certain S/N to the list of affected parts. EASA AD 2021-0121 retains the requirements of EASA AD 2020-0011R1, and corrects Table 1 and Appendix 1 of EASA AD 2020-0011R1.

### FAA’s Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that an unsafe condition is likely to exist or develop on other helicopters of the same type designs.

### Related Service Information Under 1 CFR Part 51

The FAA reviewed ASB 139-609 Rev A, which specifies procedures for replacing an affected MGB lock nut with the new MGB lock nut, within certain compliance times for certain part-numbered MGBs, with certain serial numbers.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

### Other Related Service Information

The FAA also reviewed Leonardo Helicopters ASB No. 139-567, Revision B, dated October 18, 2019, which provides additional information for replacing the MGB lock nut.

### Proposed AD Requirements

This proposed AD would require within 100 hours time in service (TIS) or during the next scheduled MGB overhaul, whichever occurs first after the effective date of this AD, removing a certain part-numbered MGB lock nut from service and replacing it with a new part-numbered MGB lock nut. This proposed AD would prohibit installing an MGB having an affected MGB lock nut and also prohibit installing an affected MGB lock nut on any helicopter as of the effective date of the proposed AD.

### Differences Between This Proposed AD and the EASA AD

EASA AD 2021-0121 requires a compliance time based on number of landings, whereas this proposed AD would require a compliance time based on hours TIS. The service information referenced in EASA AD 2021-0121 requires submitting certain information and parts to Leonardo, whereas this proposed AD would not. EASA AD 2021-0121 applies to all serial-numbered Model AB139 and AW139 helicopters, whereas this proposed AD would only apply to Model AB139 and AW139 helicopters without certain part-numbered MGB lock nuts installed and with certain part-numbered MGBs installed.

### Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 130 helicopters of U.S. Registry. Labor rates are estimated at \$85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Replacing each affected MGB lock nut with a newly designed MGB lock nut would take about 190 work-hours (during next MGB overhaul) and parts would cost about \$7,600 for an estimated cost of \$23,750 per replacement.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and

procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866,
2. Would not affect intrastate aviation in Alaska, and
3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**Leonardo S.p.a.:** Docket No. FAA–2021–0579; Project Identifier MCAI–2020–00267–R.

#### (a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by September 9, 2021.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to Leonardo S.p.a. Model AB139 and AW139 helicopters, certificated in any category, without main gearbox (MGB) spherical bearing lock nut (lock nut) part number (P/N) 3G6320A09152 installed and with:

(1) MGB P/N 3G6320A00131, 3G6320A00132, 3G6320A00133, 3G6320A00134, 3G6320A00135, 3G6320A00136, 3G6320A22031, 4G6320A00132, or 4G6320A00133 installed, or

(2) MGB P/N 3G320A00133 with serial number (S/N) M23, or MGB P/N 3G6320A00134, with S/N M6, N76, N92, P124, P129, P131, P162, P184, Q230, Q243, Q249, R272, V21, V39, V96, V163, V211, V241, V272, V281, V384, V386, or V622 installed, or

(3) MGB P/N 3G6320A00136 with S/N AW1, AW2, AW3, AW5, or AW10 installed.

#### (d) Subject

Joint Aircraft Service Component (JASC) Code: 6320, Main Rotor Gearbox.

#### (e) Unsafe Condition

This AD was prompted by a cracked MGB lock nut. The FAA is issuing this AD to replace an affected MGB lock nut with a new MGB lock nut. The unsafe condition, if not addressed, could result in failure of the MGB planetary gears, resulting in loss of control of the helicopter.

#### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

#### (g) Required Actions

(1) Within 100 hours time-in-service, or during the next scheduled MGB overhaul, whichever occurs first after the effective date of this AD, remove each MGB lock nut P/N 3G6320A09151 from service and replace with MGB lock nut P/N 3G6320A09152 in accordance with Annex A, steps 1 through 17, of Leonardo Helicopters Alert Service Bulletin No. 139–609, Revision A, dated April 13, 2021 (ASB 139–609, Rev A), except you are not required to send parts to Leonardo Helicopters.

**Note to paragraph (g)(1):** Leonardo Helicopters service information refers to an MGB lock nut as a ring nut.

(2) As of the effective date of this AD, do not install any MGB having MGB lock nut P/N 3G630A09151 on any helicopter, and do not install any MGB lock nut P/N 3G630A09151 on any helicopter.

#### (h) Special Flight Permits

Special flight permits are prohibited.

#### (i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager

of the local flight standards district office/certificate holding district office.

#### (j) Related Information

(1) For more information about this AD, contact Rao Edupuganti, Aerospace Engineer, Dynamic Systems Section, Technical Innovation Policy Branch, Policy & Innovation Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email [rao.edupuganti@faa.gov](mailto:rao.edupuganti@faa.gov).

(2) For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at <https://customerportal.leonardocompany.com/en-US/>. You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(3) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD 2021–0121, dated May 4, 2021. You may view the EASA AD on the internet at <https://www.regulations.gov> in Docket No. FAA–2021–0579.

Issued on July 20, 2021.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–15722 Filed 7–23–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2020–0896; Airspace Docket No. 20–ANM–17]

**RIN 2120–AA66**

### Proposed Modification of Class D Airspace; McChord Field (Joint Base Lewis-McChord), WA; Supplemental

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Supplemental notice of proposed rulemaking (SNPRM).

**SUMMARY:** This action proposes to modify the Class D airspace at McChord Field (Joint Base Lewis-McChord), Tacoma, WA. After a review of the airspace, the FAA found it necessary to amend the existing airspace for the safety and management of Instrument Flight Rules (IFR) operations at this location and Visual Flight Rules (VFR) at a satellite airport. This proposal would also remove a reference to the McChord Very High Frequency

Omnidirectional Range beacon (VOR) from the legal description, update the airport name and city, and amend the geographical coordinates for the airport to match the FAA's database.

**DATES:** Comments must be received on or before September 9, 2021.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590; telephone: 1-800-647-5527, or (202) 366-9826. You must identify FAA Docket No. FAA-2020-0896; Airspace Docket No. 20-ANM-17, at the beginning of your comments. You may also submit comments through the internet at <https://www.regulations.gov>.

FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at <https://www.faa.gov/air-traffic/publications/>. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov), or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**FOR FURTHER INFORMATION CONTACT:** Richard Roberts, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231-2245.

#### **SUPPLEMENTARY INFORMATION:**

##### **Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the Class D airspace to support IFR operations at McChord Field (Joint Base Lewis-McChord), Tacoma, WA.

#### **Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2020-0896; Airspace Docket No. 20-ANM-17". The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### **Availability of NPRMs**

An electronic copy of this document may be downloaded through the internet at <https://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at [https://www.faa.gov/air-traffic/publications/airspace\\_amendments/](https://www.faa.gov/air-traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198.

#### **Availability and Summary of Documents for Incorporation by Reference**

This document proposes to amend FAA Order 7400.11E, Airspace

Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### **Background**

The FAA published a notice of proposed rulemaking for Docket No. FAA-2020-0896 in the **Federal Register** (85 FR 69281; November 2, 2020) proposing to modify the Class D airspace McChord Field (Joint Base Lewis-McChord). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. One comment was received during the comment period. The commenter was concerned that removing the entire area previously excluded for Spanaway Airport, would place aircraft arriving and departing Shady Acres Airport at a disadvantage while departing to the North and Landing to the South.

Subsequent to publication of the NPRM, the FAA received comments from the Aircraft Owners and Pilot Association (AOPA), the Airport Manager and local Pilots from Shady Acres Airport and the U.S. Air Force. AOPA, the Airport Manager and local pilots were in favor of a small portion of airspace, from the original area cutout for Spanaway airport, being maintained for satellite airport operations at Shady Acres Airport. These amendments would maintain the current level of operational safety, while adhering to FAA policy on airspace for satellite airports. The U.S. Air Force was not in favor of this recommendation. In addition, the FAA identified an area of airspace to the Northwest that needed additional clarification in its boundary and the U.S. Air Force identified that only the VOR was being decommissioned and not the Tactical Air Navigation System (TACAN), as previously reported. The FAA determined that the proposal needed additional consideration due to these comments.

#### **The Proposal**

The FAA is proposing an amendment to 14 CFR part 71 by modifying the lateral dimensions of the Class D airspace. The FAA initiated a review of the assigned airspace and drafted the subsequent proposal for modification due to three actions. The FAA decommissioned the McChord VOR because the U.S. Air Force was no longer going to maintain the NAVAID.

As a result of the decommissioning, the FAA was required to redefine the airspace that uses the VOR as a reference and remove the reference from the associated airspace descriptions. The U.S. Air Force requested elimination of airspace previously excluded for operations at Spanaway Airport. In response, the FAA completed an airspace review to evaluate that request and the Class D airspace had not been examined in the previous two years as required by FAA Orders.

The exclusion of Class D airspace that is southeast of the airport would be modified to facilitate use of the airspace for aircraft arriving and departing Shady Acres Airport, in keeping with FAA Directives. A portion of the airspace overlying Lakewood, WA would also be eliminated, as it is no longer needed.

In addition, the Legal Descriptions Heading would be corrected to identify the proper city and state, the name of the airport and the geographical coordinates for McChord Field (Joint Base Lewis McChord) to match the FAA's National Airspace System Resource (NASR) database.

Class D airspace designations are published in paragraph 5000 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document will be published subsequently in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 5000 Class D Airspace.*

\* \* \* \* \*

#### ANM WA D Tacoma, WA [AMEND]

McChord Field (Joint Base Lewis-McChord), WA

(Lat. 47°08'17" N, long. 122°28'35" W)

That airspace extending upward from the surface to and including 2,800 feet MSL within a 5.4-mile radius of the McChord Field (Joint Base Lewis-McChord), beginning at the point the 315° bearing intersects the 5.4-mile radius clockwise to the point where the 162° bearing intersects the 5.4-mile

radius thence south to lat. 47°02'10" N, long. 122°26'13" W, thence west to lat. 47°02'21" N, long. 122°31'31" W, thence north to lat. 47°04'19" N, long. 122°31'27" W, thence northwest to lat. 47°08'47" N, long. 122°35'11" W, thence east to lat. 47°08'35" N, long. 122°33'03" W, thence north to the point of beginning; and excluding that airspace at and below 1,000 feet MSL within an area bounded by a line beginning at the point the 119° bearing intersects the 5.4-mile radius clockwise to the point the 145° bearing intersects the 5.4-mile radius to lat. 47°04'34" N, long. 122°24'2" W; thence to lat. 47°05'43" N, long. 122°22'24" W; thence to the point of beginning.

Issued in Des Moines, Washington, on July 19, 2021.

**Maria A Aviles,**

*Acting Group Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2021–15720 Filed 7–23–21; 8:45 am]

**BILLING CODE 4910–13–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R07–OAR–2019–0707; FRL–8684–03–R7]

### Air Plan Approval; Missouri; Open Burning; Withdrawal

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is withdrawing its proposed rule to approve Missouri's revisions to the state's open burning rule, as published in the **Federal Register** on January 13, 2020. By a letter to the EPA dated May 26, 2021, Missouri withdrew its request for approval of revisions to this rule in the state implementation plan (SIP).

**DATES:** The proposed rule published on January 13, 2020 (85 FR 1794) is withdrawn as of July 26, 2021.

**FOR FURTHER INFORMATION CONTACT:** Wendy Vit, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7697, or by email at [vit.wendy@epa.gov](mailto:vit.wendy@epa.gov).

**SUPPLEMENTARY INFORMATION:** Missouri has withdrawn the rule as stated in the letter dated May 26, 2021, which is included in the docket for this action. Because the EPA received adverse comments on its proposed rule, the EPA is publishing this notice of withdrawal to notify commenters that it no longer intends to take final action on the

revisions proposed to 10 CSR 10–6.045 on January 13, 2020 at 85 FR 1794.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate

matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 19, 2021.

**Edward H. Chu,**

*Acting Regional Administrator, Region 7.*

[FR Doc. 2021–15736 Filed 7–23–21; 8:45 am]

**BILLING CODE 6560–50–P**

# Notices

Federal Register

Vol. 86, No. 140

Monday, July 26, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Office of Partnerships and Public Engagement

[FOA No.: OPPE-016]

#### Catalog of Federal Domestic Assistance (CFDA) No.: 10.443— Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers and Veteran Farmers and Ranchers

**AGENCY:** Office of Partnerships and Public Engagement (OPPE), Agriculture (USDA).

**ACTION:** Funding Opportunity Announcement (FOA) for fiscal year 2021.

**SUMMARY:** This notice announces the availability of funds for fiscal year (FY) 2021 and solicits applications from community-based and non-profit organizations, institutions of higher education, and Tribal entities to compete for financial assistance through the Outreach and technical assistance for Socially Disadvantaged Farmers and Ranchers and Veteran Farmers and Ranchers Program (hereinafter referred to as the “2501 Program”). The overall goal of the 2501 Program is to encourage and assist socially disadvantaged farmers and ranchers, veteran farmers and ranchers, and beginning farmers and ranchers with owning and operating farms and ranches and in participating equitably in the full range of agricultural, forestry, and related programs offered by USDA. In partnership with the OPPE, eligible entities may compete for funding on projects that provide education and training in agriculture, agribusiness, forestry, agriculturally related services, and USDA programs, and to conduct outreach initiatives designed to accomplish those goals. This partnership includes working closely with OPPE, attend OPPE-led events in your proposed service territory, and collaborate with your State Food and

Agriculture Council (SFAC). The SFAC consists of leadership in each state of the following agencies: Farm Service Agency, Natural Resources Conservation Service, and Rural Development.

**DATES:** Only one project proposal may be submitted per eligible entity. Proposals must be submitted through *Grants.gov* ([www.grants.gov](http://www.grants.gov)) and received by August 25, 2021, at 11:59 p.m. EDT. Proposals submitted after this deadline will *not* be considered for funding.

**ADDRESSES:** The OPPE will host two (2) webinars during the open period of this announcement as provided below. Sessions will be recorded. Additional sessions may be necessary to answer questions and clarify requirements. There is no registration required to participate.

Session 1: July 28, 2021, at 2:00 p.m. EDT—To join the conference, click: <https://ems8.intellor.com/login/839760> Follow the prompts to connect audio by computer or telephone. If you are unable to join the web conference or require a non-US phone number, click here. Access Code: 5066171#.

Session 2: August 10, 2021, at 2:00 p.m. EDT—To join the conference, click: <https://ems8.intellor.com/login/839761> Follow the prompts to connect audio by computer or telephone. If you are unable to join the web conference or require a non-U.S. phone number, click here. Access Code: 7821646#.

#### Filing a Complaint of Discrimination

To file a program discrimination complaint, you may obtain a complaint form by sending an email to [OAC@usda.gov](mailto:OAC@usda.gov). You or your authorized representative must sign the complaint form. You are not required to use the complaint form. You may write a letter instead. If you write a letter, it must contain all the information requested in the form and be signed by you or your authorized representative. Incomplete information will delay the processing of your complaint. Employment civil rights complaints will not be accepted through this email address.

Send your completed complaint form or letter to USDA by mail, fax, or email:

*Mail:*

U.S. Department of Agriculture  
Director, Center for Civil Rights  
Enforcement, 1400 Independence

Avenue SW, Washington, DC 20250–9410.

*Email:* [program.intake@usda.gov](mailto:program.intake@usda.gov).

*Fax:* (202) 690–7442.

**FOR FURTHER INFORMATION CONTACT:** U.S. Department of Agriculture, Office of Partnerships and Public Engagement, Attn: Kenya Nicholas, Program Director, Jamie L. Whitten Building, Room 520–A, 1400 Independence Avenue SW, Washington, DC 20250.

*Phone:* (202) 720–6350.

*Fax:* (202) 720–7704.

*Email:* [501Grants@usda.gov](mailto:501Grants@usda.gov).

**Persons with Disabilities:** Persons who require alternative means for communication (Braille large print, audiotope, etc.), should contact USDA’s TARGET Center at (202) 720–2600 (voice and TDD). Additionally, alternative means for submissions due to disability status will be approved on a case-by-case basis.

**SUPPLEMENTARY INFORMATION: Funding/Awards:** The total funding provided for this competitive program is approximately \$16.6 million as provided in the 2018 Farm Bill.

The OPPE will award grants from this announcement, subject to availability of funds and the quality of applications received. All applicants will compete based on their organization’s entity type (e.g., nonprofit organization, tribal entity, or higher education institution), as described below. *The project period must be three (3) years for all proposals.* The maximum amount of requested federal funding for projects shall not exceed \$750,000 over the 3-year period. Additionally, the maximum award per year is \$250,000. Projects will be funded in accordance with the approved statement of work and the OPPE Guidelines to maximize outreach, education and technical assistance ensuring geographical distribution of funds as required in section 7 U.S.C. 2279(c)(4)(G).

Funds will be awarded to eligible entities that have at least three (3) years of documented experience, preceding the submission of an application, in working with socially disadvantaged farmers and ranchers or veteran farmers and ranchers to improve their ability to start and maintain successful forestry and/or agricultural-related operations. The Secretary shall give priority to nongovernmental and community-based organizations with demonstrated history of serving socially disadvantaged and

veteran farmers and ranchers (see Section V. Application Review Information).

An applicant **MUST** be an entity or organization. Individuals and for-profit organizations do not meet the eligibility criteria.

Funds under this program may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility. Program funds may not be used for start-up or financing costs for businesses. Additionally, funds may not be used for an organization's capacity building, which is defined as the development of organizational competencies, strategies, or systems and structures in order to improve organizational efficiency and effectiveness. Program funds may also not be used as small agricultural loans for individual farmers or used to incentivize individuals to attend an event. Finally, large equipment purchases such as vehicles, semi-tractors, or refrigeration systems are unallowable under this program.

Eligible entities may receive subsequent years funding provided that:

(a) Activities and associated costs do not overlap with projects awarded in previous years; and

(b) Recipients are current and compliant with financial and performance reporting. The progress of existing projects, along with the percentage of funds used to date, may impact funding decisions.

Funding will be awarded based on ranked scores comprised of the three categories described below, along with the amount of anticipated funding for each category. The OPPE has discretion to allocate funding among the three categories based upon the number and quality of applications received. There is no commitment by the OPPE to fund any particular application nor is there a minimum number of recipients within each category.

**Category #1:** Eligible entities described in Sections III.A.2, III.A.3, and III.A.4

(1890 Land-Grant colleges and universities, 1994 Tribal Land-Grant, Alaska Native and American Indian Tribal colleges and universities, and Hispanic-Serving Institutions of higher education).

**Category #2:** Eligible entities described in Sections III.A.1 and III.A.6 (*i.e.*, nonprofit organizations, community-based organizations, including a network or a coalition of community-based organizations, Federally-recognized Indian Tribes (as defined in 25 U.S.C. 5131), and National Tribal organizations).

**Category #3:** Eligible entities described in Sections III.A.5 and III.A.7 (*i.e.*, all other institutions of higher education including 1862 colleges, nonprofit organizations without a 501(c)(3) status certification from the IRS, and an organization or institution that received funding under this program before January 1, 1996).

#### Contents of This Announcement:

- I. Funding Opportunity Description
  - A. Background
  - B. Scope of Work
  - C. Anticipated Outputs (Activities), Outcomes (Results), and Performance Measures
- II. Award Information
  - A. Statutory Authority
  - B. Expected Amount of Funding
  - C. Project Period
  - D. Award Type
- III. Eligibility Information
  - A. Eligible Entities
  - B. Cost-Sharing or Matching
  - C. Threshold Eligibility Criteria
- IV. Proposal and Submission Information
  - A. Data Universal Numbering System
  - B. System for Award Management (SAM)
  - C. Obtain Proposal Package From *Grants.gov* ([www.grants.gov](http://www.grants.gov))
  - D. Content of Proposal Package Submission
  - E. Sub-Awards and Partnerships
  - F. Submission Dates and Times
  - G. Confidential Information
  - H. Pre-Submission Proposal Assistance
- V. Application Review Information
  - A. Evaluation Criteria
  - B. Evaluation Criteria for New Grants Proposals
  - C. Selection of Reviewers
- VI. Award Administration Information
  - A. Award Notices
  - B. Administrative and National Policy Requirements
  - C. Reporting Requirement

#### I. Funding Opportunity Description

##### A. Background

The OPPE is committed to ensuring that socially disadvantaged and veteran farmers and ranchers can equitably participate in USDA programs. Differences in demographics, culture, economics, language, and other factors preclude a single approach to identifying solutions that can benefit underserved farmers and ranchers. Grants are provided to community-based and non-profit organizations, higher education institutions, eligible Tribal entities and other eligible entities with at least three (3) years of documented experience, preceding the submission of an application. Eligible entities working with socially disadvantaged farmers and ranchers or veteran farmers and ranchers can improve their ability to start and maintain successful forestry and/or agricultural-related operations. With 2501 Program funding, organizations

can provide agricultural outreach and technical assistance and extend outreach and education efforts to connect with and assist socially disadvantaged and veteran farmers and ranchers to provide them with information on available USDA resources.

1. The 2501 Program was authorized by the Food, Agriculture, Conservation, and Trade Act of 1990. The Food, Conservation, and Energy Act of 2008 expanded the authority of the Secretary of Agriculture (the Secretary) to provide awards under the program and transferred the administrative authority to the OPPE. The Agricultural Act of 2014 further expanded the program to include outreach and technical assistance to veterans. The 2501 Program extends USDA's capacity to work with members of farming and ranching communities by funding projects that enhance the equitable participation of socially disadvantaged and veteran farmers and ranchers in USDA programs. It is the OPPE's intention to build lasting relationships among USDA, recipient organizations, and socially disadvantaged and veteran farmers and ranchers to maximize the availability of outreach and technical assistance in targeted communities.

2. *Only one proposal will be accepted from each organization.* This does not apply to applicants in the State of Massachusetts. The State fiscal transfer agent may submit multiple proposals ensuring that only one proposal is submitted on behalf of each of its individual fiscally sponsored organizations.

##### B. Scope of Work

The 2501 Program provides funding to eligible organizations with *at least 3 years* of documented experience, preceding the submission of an application, in working with socially disadvantaged farmers and ranchers or veteran farmers and ranchers to improve their ability to start and maintain successful forestry and/or agricultural-related operations. This is a non-construction grant. Proposals must be consistent with requirements stated in 7 U.S.C. 2279(c)(3). Under this statute, the outreach and technical assistance program funds shall be used exclusively:

1. To enhance coordination of the outreach, technical assistance, education, and training efforts authorized under USDA agriculture programs;

2. To assist the Secretary of Agriculture in:

a. Reaching current and prospective socially disadvantaged farmers or

ranchers, veteran farmers or ranchers, or beginning farmers and ranchers in a linguistically appropriate manner; and

b. improving the participation of those farmers and ranchers in USDA programs.

There are five programmatic mission areas that support the goals of the 2501 Program. Proposals from eligible entities must address *at least two* of the five following programmatic mission areas as they develop their goals:

i. Assist socially disadvantaged, veteran farmers and ranchers, or beginning farmers and ranchers in owning and operating successful farms and ranches;

ii. Improve participation among socially disadvantaged or veteran farmers and ranchers in USDA programs;

iii. Build relationships between current and prospective farmers and ranchers who are socially disadvantaged or veterans and USDA's local, state, regional, and National offices;

iv. Assist in reaching current and prospective socially disadvantaged farmers, ranchers, or forest landowners in a linguistically appropriate manner; and

v. Assist with identifying problems and barriers identified by entities in trying to increase participation by current and prospective socially disadvantaged farmers or ranchers.

The OPPE shall seek input from eligible entities providing technical assistance under this subsection not less than once each year to ensure that the program is responsive to the eligible entities providing that technical assistance (7 U.S.C. 2279(c)(4)(J)). The OPPE may require Project Directors to attend an Annual Meeting that can be expensed with awarded grant funds not to exceed \$1,800 per award year. The Annual Meeting will allow participants, USDA officials, and other agriculture-related industry participants to network, encourage partnerships, share best practices (including COVID-related strategies used to assist targeted communities), discuss programmatic requirements, share information on new and enhanced USDA programs and services, and obtain programmatic feedback. Stakeholder input will also be accepted by those unable to attend the Annual Meeting in person by September 30th of each fiscal year at: [2501Grants@usda.gov](mailto:2501Grants@usda.gov).

### C. Anticipated Outputs (Activities), Outcomes (Results), and Performance Measures

1. Outputs (Activities). The term "output" means an outreach, educational component, or assistance

activity, task, or associated work product related to improving the ability of socially disadvantaged or veteran farmers and ranchers to own and operate farms and ranches, assistance with agriculture related activities, or guidance for participation in USDA programs. Outputs must be measurable during the period of performance.

Outputs describe an organization's activities and their participants such as: Number of workshops or meetings held and number of participants attending (including a list of participants with contact information); frequency of services or training delivered and to whom; development of products or resources provided. Other examples include but are not limited to the following:

a. Serve 300 socially disadvantaged and/or veteran farmers or ranchers by the end of the grant;

b. Conduct 12 workshops or training sessions, regarding animal husbandry, annually;

c. Assist 100 new farmers/ranchers to be able to process and accept SNAP payments;

d. Host 72 demonstrations on hoop house construction at the rate of 2 per month over a three-year period;

e. Develop a program to enhance the operational viability of socially disadvantaged and/or veteran farmers and ranchers;

f. Conduct Title Resolution Consultations for 10 socially disadvantaged farmers and ranchers with forest land, 3 of whom will receive title resolution plans & legal technical assistance annually;

g. Provide assistance to 300 socially disadvantaged farmers resulting in the submission of FSA loan and grant applications to expand farming operations at the rate of 25 per quarter per fiscal year; or

h. Hold 12 workshops annually to provide socially disadvantaged or veteran farmers and ranchers training in writing business plans, financial literacy or in automating their farming business.

2. Outcomes (Results). The term "outcome" means the difference or effect that has occurred as a result from carrying out an activity, workshop, meeting, or from delivery of services related to a programmatic goal or objective. It is also the final impact or change that occurs as a direct result of the activities performed in accomplishing the objectives and goals of your project. Outcomes may refer to results that are agricultural, behavioral, social, or economic in nature. Outcomes may reflect an increase in knowledge or skills, a greater awareness of available

resources or programs, or actions taken by stakeholders as a result of learning. Specifically, outcomes must be quantitative as it relates to the project goals and objectives. Project Directors will be required to document anticipated outcomes that are funded under this announcement including, but not limited to the following:

a. Documenting the actual number of new farmers and/or ranchers your organization assisted as a result of your project and the type of assistance (*i.e.*, number of farms or ranches started, maintained, or improved as a result of funds made available under the program);

b. Documenting race, sex, national origin, disability (if provided) and number of socially disadvantaged and/or veteran farmers or ranchers *applying* for USDA programs and services by program area;

c. Documenting race, sex, national origin, disability (if provided) and number of USDA program applications *approved* for funding, by program area, for socially disadvantaged or veteran farmers or ranchers as a result of your activities;

d. Documenting the number of socially disadvantaged or veteran farmers and/or ranchers that have better access to USDA Programs as a result of your outreach and/or training efforts;

e. Documenting the enhanced sustainability and retention of farming operations among socially disadvantaged or veteran farmers or ranchers;

f. Documenting higher profitability and economic stability among socially disadvantaged or veteran farmers or ranchers resulting from increased access to marketing and enhanced sales opportunities for their products; and

g. Documenting through surveys an increase in the awareness and number and types of USDA programs and services as a result of your project.

3. Project Performance Measures. Project performance measures are tied to the goals or objectives of each activity and ultimately the overall purpose of the project. They provide progress and completion information of proposed activities and may indicate areas where a project may need adjustments. Applicants must develop performance measure targets for each of the proposed activities. These targets will be used as a mechanism to track the progress and success of the project. Project performance measures must include the assumptions used to make those estimates. Specifically, outcomes must be *quantitative* as it relates to the project goals and objectives.

Consider the following questions when developing performance measurement statements:

- What are the measurable short-term and long-term goals our project will have on serving the needs of our stakeholders?
- How will my organization measure the effectiveness and efficiency of our proposed activities to meet the overall goals and objectives for this project?
- Will agriculture producers or beginning farmers and ranchers gain an understanding in production, marketing, business management, and legal business issues? Will they develop their business acumen or implement or incorporate what they have learned?
- How will I collect those performance measurement data? What evidence will I use with this measure?

## II. Award Information

### A. Statutory Authority

The statutory authority for this action is 7 U.S.C. 2279(c), which authorizes award funding for projects designed to provide outreach and technical assistance to socially disadvantaged or veteran farmers or ranchers.

### B. Expected Amount of Funding

The total estimated funding expected to be available for awards under this competitive opportunity is approximately \$16.6 million. The maximum amount of requested federal funding shall not exceed \$750,000.

### C. Project Period

The performance period for projects selected from this solicitation will not begin prior to the effective award date listed in the grant agreement. The project period must be no less *three (3) years*.

### D. Award Type

Funding for selected projects will be in the form of a grant agreement which must be fully executed no later than September 30 annually. The anticipated Federal involvement will include, but not limited to, the following activities:

1. Approval of recipients' final budget and Project Narrative or statement of work accompanying the grant agreement;
2. Monitoring of recipients' performance through semi-annual and final financial and performance reports; and
3. Conducting on-site monitoring visits to review compliance, use of Federal funds and fidelity in implementing the project.

All award notifications will be "conditionally approved" pending final validation of all selected applicants'

submission documentation and/or application package. OPPE reserves the right not to fund any "conditionally approved" application(s) found to be ineligible after final validation.

## III. Eligibility Information

### A. Eligible Entities

1. Any non-profit, community-based organizations, tribal entity, networks, or a coalition of community-based organizations with at least 3 years of documented expertise in working with socially disadvantaged farmers or ranchers or veteran farmers or ranchers that:

- Demonstrates experience in providing agricultural education or other agriculturally related services on USDA programs and services to socially disadvantaged or veteran farmers or ranchers;
- provides documentary evidence of work with, and on behalf of, socially disadvantaged, veteran farmers or ranchers, or beginning farmers and ranchers during the 3-year period preceding the submission of a proposal for assistance under this program (the lead applicant and/or any organization(s) comprising of a coalition or network must meet the three-year period preceding the submission criteria); and
- does not or has not engaged in activities prohibited under Section 501(c)(3) of the Internal Revenue Code of 1986.2.

2. An 1890 or 1994 land-grant institution of higher education (as defined in 7 U.S.C. 7601 and in Section 533 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note)).

3. An American Indian Tribal community college or university or an Alaska Native cooperative college.

4. A Hispanic-Serving Institution of higher education (as defined in 7 U.S.C. 3103).

5. Any other institution of higher education (as defined in 20 U.S.C. 1001) that has demonstrated experience in providing agricultural education or other agricultural-related services to socially disadvantaged or veteran farmers or ranchers.

6. Any Federally-recognized Indian Tribe (as defined in 25 U.S.C. 5131) or a national tribal organization that has demonstrated experience in providing agricultural education or other agriculturally related services to socially disadvantaged or veteran farmers or ranchers.

7. All other organizations or institutions that received funding under this program before January 1, 1996, but

only with respect to projects that the Secretary considers similar to projects previously carried out by the entity under this program.

### B. Cost-Sharing or Matching

There are no cost-sharing nor matching requirements associated with this program. Applicants may charge their negotiated indirect cost rate or 10 percent, whichever is lower. Indirect cost rates exceeding 10 percent will not be permitted.

### C. Threshold Eligibility Criteria

Applications from eligible entities that meet all criteria will be evaluated as follows:

1. Proposals must comply with the submission instructions and requirements set forth in Section IV of this announcement. Pages greater than the page limitation will not be considered.

2. Proposals must be received through *Grants.gov* ([www.grants.gov](http://www.grants.gov)) as specified in Section IV of this announcement on or before the proposal submission deadline. Applicants will receive an electronic confirmation receipt of their proposal from *Grants.gov*.

3. Proposals received after the submission deadline will not be considered. *Note that in order to submit proposals, organizations must create accounts in Grants.gov and in the System for Awards Management (www.SAM.gov); both of which could take several weeks.* Therefore, it is strongly suggested that organizations begin this process immediately. Registering early could prevent unforeseen delays in submitting your proposal.

4. Proposals must address a minimum of two programmatic mission areas listed in Section I, Part B, (i-v) to provide outreach and technical assistance to socially disadvantaged or veteran farmers or ranchers.

5. Recipients of a 2501 Grant with a Period of Performance that extends beyond 90 days of the current fiscal year are not eligible to apply (this does not apply to grantees with a no-cost extension). For example, current 2501 Grant recipients must complete their projects by the end of the current calendar year, to be eligible to apply.

6. Incomplete or partial applications will not be eligible for consideration. Any required documents missing from an applicant's application will render that applicant ineligible and the application will not be forwarded to the External Peer Review Panel (the Panel) for review. Additionally, applications may not be accepted for review if they

exceed the maximum allowable pages for the Project Narrative, exceed the maximum federal budget request, or propose objectives that do not fit the purpose and scope of the 2501 Program. See Section IV. Content of Proposal Package Submission, subparagraph D, for required documents.

#### IV. Proposal and Submission Information

##### A. Data Universal Numbering System

In accordance with the Federal Funding Accountability and Transparency Act (FFATA) and the USDA implementation, all applicants must obtain and provide an identifying number from Dun and Bradstreet's (D&B) Data Universal Numbering System (DUNS). Applicants can receive a DUNS number, at no cost, by calling the toll-free DUNS number request line at (866) 705-5711 or visiting the D&B website at [www.dnb.com](http://www.dnb.com).

##### B. System for Award Management (SAM)

*SAM.gov* streamlines the application process and reduces applicant burden by enabling applicants to complete the required Financial Assistance Representations and Certifications in *SAM.gov* when applying for any Federal assistance.

It is a requirement to register for SAM ([www.sam.gov](http://www.sam.gov)). *There is NO fee to register for this site. This registration must be maintained and updated annually.* Applicants can register or update their profile, at no cost, by visiting the SAM website at [www.sam.gov](http://www.sam.gov). This is a requirement to registering for *Grants.gov* where all organizations must submit their application.

Depending on the type of Federal Assistance your organization requests, you may need to complete the Federal Acquisition Regulation (FAR) report, but for OPPE Federal assistance, you must complete the Financial Assistance Representations and Certifications Report. Completing this report certifies that your organization is in compliance with all relevant provisions of Federal laws, executive orders, regulations, and public policies governing financial assistance awards.

Per 2 CFR part 200, applicants are required to: (1) Be registered in SAM prior to submitting an application; (2) provide a valid unique entity identifier in the application; and (3) continue to maintain an active SAM registration with current information at all times during which the organization has an active Federal award or an application or plan under consideration by a

Federal awarding agency. The OPPE may not make a Federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time the OPPE is ready to make a Federal award, the OPPE may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. Additionally, organizations found to have unresolved key personnel exclusions will not be awarded.

SAM contains the publicly available data for all active exclusion records entered by the Federal Government identifying those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits. All applicant organizations and their key personnel will be vetted through SAM to ensure compliance with this requirement. Organizations identified as having delinquent Federal debt may contact the Treasury Offset Program at (800) 304-3107 for instructions on resolution but will not be awarded a 2501 Program grant prior to resolution.

Should an applicant be awarded a grant, ezFedGrants (USDA's financial grants management system) is linked with SAM to ensure funding payments are directed properly as entities must enter their banking information through SAM; as a result Federal agencies cannot award funding to any organization not properly/fully registered in SAM.

##### C. Obtain Proposal Package From Grants.gov ([www.grants.gov](http://www.grants.gov))

Federal agencies post competitive funding opportunities on *Grants.gov* and applicants must submit their application or proposal to apply for Federal assistance through *Grants.gov*. Applicants can learn about grants by visiting *Grants.gov* ([www.grants.gov](http://www.grants.gov)), clicking on the Learn Grants tab and search for funding opportunities by clicking on the Search Grants tab on this site.

All Applicants will be required to register with *Grants.gov* in order to begin the proposal submission process. We strongly suggest you initiate this process immediately to avoid processing delays due to registration requirements. There is no cost for registration. This website is managed by the Department of Health and Human Services, not the OPPE. Many Federal agencies use this website to post Funding Opportunity Announcements (FOA). Click on the

"Support" tab to contact their customer support personnel if you need help with submitting your application.

Applicants may download individual grant proposal forms from *Grants.gov*. For assistance with *Grants.gov*, consult the Applicant User Guide at <http://grants.gov/assets/ApplicantUserGuide.pdf>.

Federal agencies post funding opportunities on *Grants.gov*. The OPPE is not responsible for submission issues associated with *Grants.gov*. If you experience submission issues, contact *Grants.gov* support staff for assistance.

Proposals must be submitted by August 25, 2021, via *Grants.gov* at 11:59 p.m. EDT. Proposals submitted after this deadline *will not* be considered.

##### D. Content of Proposal Package Submission

All submissions must contain completed and electronically signed original application forms, as well as a Project Narrative and a Budget Narrative as described below:

1. Required forms, documents, and attachments. The forms listed below can be found in the proposal package at *Grants.gov* and must be submitted with all applications. Required forms are provided in the package as fillable forms. Applicants must download and complete these forms and submit them in the application submission portal at *Grants.gov*. PDF documents listed below are documents the applicant must create and submit in PDF format. Use the checklist of *required* documents below to submit your application through *Grants.gov*:

- ✓ Standard Form (SF) 424, Application for Federal Assistance
- ✓ Project/Performance Site Location(s)
- ✓ Project Abstract Summary
- ✓ Project Narrative (in PDF format)
- ✓ Standard Form (SF) 424A, Budget Information—Non-Construction Programs
- ✓ Budget Narrative (in PDF format)
- ✓ Key Contacts
- ✓ *Grants.gov* Lobbying Form
- ✓ Articles of Incorporation for non-profit organizations & community-based organization; attach under "Attachments Form"—see next bullet
- ✓ Attachments Form (where you may place all your appendices, *i.e.*, Letters of Partnership, Letters of Intent, Resumes, Articles of Incorporation, other supporting documents, etc.)

Do not include lengthy or unnecessary organizational documents such as your organization's business plans, Annual Reports, or full course or training curriculums in your application. Excessively large

documents in applications are cumbersome and increase downloading errors from *Grants.gov* and in forwarding to the Panel members.

Note, additional required forms from organizations being awarded 2501 Grant funds will be provided for execution upon grant approval if necessary.

Below is further guidance, where needed, for completing the required forms, documents, and attachment forms listed above.

**SF-424, Application for Federal Assistance:** Complete all highlighted areas on this form. Pay particular attention to block 18a of the SF-424. This is the total amount of Federal funding you are requesting under the 2501 Program. This form is the official requesting document and the amount that will be considered if you should have any discrepancies between this form and your Budget Information Form, SF-424A. Ensure this form is completed with accuracy, particularly email addresses and phone numbers. The OPPE may not be able to reach you if your information is incorrect.

**Project/Performance Site Location(s):** Complete all highlighted areas on this form. Add additional locations if your project will be carried out at additional sites.

**Project Abstract Summary:** A Project Abstract Summary is a concise summary about your project. No points will be given or subtracted for the Project Summary Page as it will be used only for informational purposes. It may be used in its entirety or in part for media purposes to include in press releases, informational emails to potential stakeholders or partners, to provide upper echelons of government with a snapshot of an organization, and for demographic purposes. Do not restate the objectives of the 2501 Program (*i.e.*, “to provide outreach and technical assistance for socially disadvantaged farmers and ranchers and veterans farmers and ranchers”); the Project Abstract Summary should reflect the goal of your specific project. Limit your Project Abstract Summary to 250 words and include the following:

- Your organization’s name;
- Name of your project;
- Three or four sentences describing your project;
- The primary populations/communities you serve;
- The project’s geographic service area (counties, state(s), etc.); and
- Project Director’s name, email address, and telephone number.

**Project Narrative** (not to exceed 30 double-spaced pages): The Project Narrative is a document that you create. It must include a timeline of proposed

activities. *Formatting requirements for Project Narratives* are 1-inch margins and 12-point font, Number each page of the Project Narrative to indicate the total number of pages (*i.e.*, 1 of 30, 2 of 30, etc.). To ensure fairness and uniformity for all applicants, Project Narratives not conforming to this stipulation may not be considered.

Project proposals should include a well-conceived strategy for addressing the programmatic mission areas stated in Section I, Part B, Scope of Work. Organizations should state which programmatic mission areas will be addressed. Additionally, proposals must: (1) Define and establish the existence of the needs of socially disadvantaged farmers or ranchers or veteran farmers or ranchers, or both; (2) identify the geographic area of service; and (3) discuss the potential impact of the project; (4) clearly state their 3-years of experience in delivering agriculture related services to socially disadvantaged or veteran farmers and ranchers and provide documented proof; and (5) clearly document how you plan to fulfill the requirement to coordinate efforts in partnership with the OPPE and USDA’s SFAC to maximize outreach and training in your service territory.

• **Programmatic Capability:** Project proposals must: (1) identify the experience of the organization(s) and key personnel taking part in the project (past successes); (2) identify the names of organizations that will be your partners in the project if any; (3) identify the qualifications, relevant experience, education, and publications of each Project Director or collaborator; and (4) specifically address the work to be completed by key personnel and their roles and responsibilities within the scope of the proposed project. This includes partnering scenarios whereas each partners’ roles and responsibilities must be defined.

• **Financial Management Experience:** Document a demonstrated ability to successfully manage and complete your project by including details of past successfully completed projects and financial management experiences.

• **Tracking and Measuring:** Clearly document a detailed plan for tracking and measuring project progress including the results of the project in terms of achieving expected project outputs and outcomes as stated in Section I, Part C, Performance Measures. This could include the tracking of the projected number of socially disadvantaged and/or veteran farmers and ranchers assisted in comparison to the actual, number of socially disadvantaged and/or veteran farmers

and ranchers that have applied to USDA programs and services versus how many were funded, etc.

• In an organized format, create a timeline for each task to be accomplished during the period of performance timeframe. Relate each task to one of the five programmatic mission areas in Section I, Part B. The timeline is part of the 30-page limit but can be as simple as a one-page description of tasks. The timeline may be in a table format and does not have to be double-spaced.

Attach your Project Narrative in PDF format to the Mandatory Project Narrative form in your *Grants.gov* package.

**SF-424A, Budget Information—Non-Construction Programs:** Provide as much information as possible on the SF-424A, particularly for multi-year projects. For example, on page 1 of SF-424A, line 1 across may indicate year one of your project, line 2 across may indicate year two of your project, and line 3 across may indicate year three of your project. On page 1A of SF-424A, columns 1 through 3 may represent each year of your project. All cost categories on page 1A of this form are considered direct costs. Remember that your indirect cost rate *may not exceed the 10 percent statutory limitation* on indirect costs found in 7 U.S.C. 2279(l)(7).

**Budget Narrative** (not to exceed 5 pages): The Budget Narrative is a document that you create. It must be no more than five pages. It does NOT have to be double spaced. You may use tables. While the Federal awarding agency understands that your proposed budget is an estimation of costs, your Budget Narrative should be based on financial forecasting assumptions. The Budget Narrative should identify and describe the costs associated with the proposed project, including sub-awards or contracts and indirect costs. These costs should be very detailed and descriptive as to their purpose. Review 2 CFR part 200 Subpart E—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to ensure your project is not planned with unallowable costs. Applicants may charge their negotiated indirect cost rate or 10 percent, whichever is lower. Indirect cost rates exceeding 10 percent will not be permitted. Other funding sources may also be identified in the Budget Narrative. Each cost indicated must be reasonable, allocable, necessary, and allowable under Federal Cost Principles (2 CFR part 200, subpart E—Cost Principles) in order to be funded.

• Cost categories, also called Object Class Categories, include costs for

Personnel, Fringe Benefits, Travel, Equipment, Supplies, Contractual, Construction, and Other costs.

- **Personnel costs:** For each key staff person, provide the name (if known), title, time commitment to the project as a percentage of a full-time equivalent (FTE), annual salary, and grant funded salary. You may refer to the prevailing wage rates established by the Department of Labor by occupation and geographical area. Compensation for personnel services (whether classified as personnel, contractual services, or any other form) may not exceed the pro-rated equivalent of Step III of the Executive Schedule for Federal Employees.

- Costs of consultants, subgrants, or contractors should be included in the "Contractual" cost category.

- **Fringe Benefits:** Provide a breakdown of amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement, etc.

- **Travel costs:** Provide specifics on purpose of travel, number of travelers, destination, and estimates on costs for airfare, lodging, meals, car rentals, and incidentals. The Federal Travel Regulations should be used as a guide.

- **Equipment:** Any article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition costs which equals or exceeds the lesser of (a) the capitalization level established by the organization for financial statement purposes, or (b) \$5,000. For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. The Recipient shall maintain an annual inventory, which will include a brief description of the item, serial number, and amount of purchase for equipment purchased with grant funds, or received under a grant, and having a \$5,000 or more per unit cost. The inventory must also identify the sub-award under which the equipment was purchased. Maintenance and insurance will be the responsibility of the Recipient. Title of equipment will remain with the Recipient until closeout when disposition will be provided in writing by OPPE within 120 days of submission of final reports.

- **Supplies:** Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

- **Contractual costs:** Costs should entail all contracts for services and

goods that further the work of the project only.

- Include third party evaluation contracts (if applicable) and contracts with secondary recipient organizations. Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, free, fair, and open competition. Identify proposed sub-contractor work and the cost of each sub-contractor. Provide a detailed budget for each sub-contractor that is expected to perform work estimated to be \$30,000 or more, or 50% of the total work effort, whichever is less.

- Identify each planned subcontractor and its total proposed budget. Each subcontractor's budget and supporting detail should be included as part of the applicant's budget narrative.

- Provide the following information for each planned subcontract: A brief description of the work to be subcontracted; the number of quotes solicited and received, if applicable; the cost or price analysis performed by the applicant; names and addresses of the subcontractors tentatively selected and the basis for their selection; e.g., unique capabilities (for sole source subcontracts), low bidder, delivery schedule, technical competence; type of contract and estimated cost and fee or profit; and, affiliation with the applicant, if any.

- Include all Subawards under Contractual Costs. Per 2 CFR part 200.1, Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

**Subaward budgets:** Roles and responsibilities must be defined to determine the level of involvement and efforts to increase training and outreach to socially disadvantaged farmers and ranchers. If applicable, identify each planned subawardee and its total proposed budget. Include a brief description of the work to be performed.

- **Other costs:** Identify and describe in detail any other costs not identified in the above cost categories. Costs associated with an organization's day-to-day operations such as custodial workers would be an example of "Other" costs. Provide an itemized list with costs and state the basis for each proposed item.

Special notes when creating your budget:

1. 2501 Program funds may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility. Program funds may not be used for start-up or financing costs for businesses or for capacity building. Program funds may not be used as small agricultural loans for individual farmers or used to incentivize individuals to attend an event. Large equipment purchases such as vehicles, semi-tractors, or refrigeration systems are also unallowable under this program.

2. Costs must be deemed reasonable. This includes salaries for key personnel which may not exceed the prevailing wage rates established by the Department of Labor by occupation and geographical area (see 2 CFR part 200.404 and Appendix II(D)).

3. Food for conferences may not exceed \$10 per person per meal, not to exceed two meals per day. Additionally, cattle for demonstration projects only, may not exceed \$4,000, which includes any transportation costs, feed/feeding lot, etc. Grant funds may NOT be used to pay attendees as an incentive for participation in conferences nor be advertised as such. For a list of unallowable costs, see 2 CFR part 200, subpart E.

Attach your Budget Narrative in PDF format to the Mandatory Budget Narrative form in your *Grants.gov* package.

**Key Contacts Form:** Provide first, middle, and last names of all key personnel that will be working on the proposed project. All organizations should submit at least a Project Director or Manager and a Financial Representative. Additional Key Contacts Forms may be used as necessary. Ensure this form is completed with accuracy. Individuals not listed on an applicants' Key Contacts Form will not receive information about or access to data that concerns the applicant organization.

**Attachments Form for Appendices:** Non-profit organizations must submit abbreviated Articles of Incorporation (must have been established at least 3 years prior to application submission). All applicants should submit résumés for key personnel; Letters of Commitment; Letters of Intent, Partnership Agreements, or Memoranda of Understanding with partner organizations; Letters of Support; 501(c)(3) certification from the IRS (if applicable), or other supporting documentation which is encouraged but not required. Using this form in your *Grants.gov* application package, applicants can consolidate all

supplemental materials into one attachment or attach appendices documents individually. Do *not* include documents from other sections as an Appendix.

**DO NOT PASSWORD PROTECT ANY OF YOUR SUBMITTED DOCUMENTS OR FORMS.** Password protected documents cannot be viewed by the OPPE or the Panel.

#### *E. Sub-Awards and Partnerships*

Funding may be used to provide subawards, which includes using subawards to fund partnerships; however, the lead recipient must utilize at least 50 percent of the total funds awarded, and no more than three subawards will be permitted. Subawardees and partners are generally responsible for carrying out grant activities as assigned. All subawardees or partners are subject to the requirements and responsibilities on the grant and must be a nonprofit or institution of higher education. This does *not* apply to contractors as they support the grant activities by providing goods and services. All applicants, including the lead or prime applicant if applying as a coalition of nonprofits, are responsible for ensuring that all sub-awardees comply with applicable requirements for subawards and are subject to the Terms and Conditions of the Agreement, if awarded. Applicants must provide documentation of a competitive bidding process for services, contracts, and products, including consultants and contractors, and conduct cost and price analyses to the extent required by applicable procurement regulations.

The OPPE awards funds to *one eligible applicant* as the lead or prime award recipient. Indicate a lead or prime applicant as the responsible party if other organizations are named as partners or co-applicants or members of a coalition or consortium. The lead or prime award recipient will be held accountable to the OPPE for the proper administrative requirements and expenditure of all funds.

Per OMB guidance, Federal awarding agencies are required to check the SAM Exclusions list of persons and entities ineligible for Federal awards. This requirement flows down to Federal Award recipients who are required to check SAM Exclusions for all subawards and contracts. Prime recipients must obtain prior written approval from the awarding agency for all proposed subawards, regardless of size, for all subawards not included in the original proposal (see 2 CFR 200.308(c)(6)). For all subawards, prime recipients must confirm that they have conducted a risk-assessment of each of

the proposed subrecipient(s) by name; and verify that each subrecipient does not have active exclusions in SAM and does not appear on the Suspension and Debarment List.

#### *F. Submission Dates and Times*

The closing date and time for receipt of proposal submissions is August 25, 2021, at 11:59 p.m., EDT, via *Grants.gov* ([www.grants.gov](http://www.grants.gov)). Proposals received after the submission deadline will be considered late without further consideration. Proposals must be submitted through *Grants.gov* without exception. Additionally, organizations must also be registered in the System of Awards Management (SAM) at: [www.sam.gov](http://www.sam.gov). Creating an account for both websites can take several weeks to receive account verification and/or PIN numbers. Allow sufficient time to complete access requirements for these websites. *Grants.gov* supports many Federal granting agencies and their applicants. Delaying the submission of your application until the last day could be result in your application not being received on time due to issues pertaining to a high volume of users, system maintenance, issues with registration, having a pending registration because of a backlogged system, and expired *SAM.gov* registrations. The proposal submission deadline is firm.

#### *G. Confidential Information*

In accordance with 2 CFR part 200, the names of entities submitting proposals, as well as proposal contents and evaluations, will be kept confidential to the extent permissible by law. Any information that the applicant wishes to have considered as confidential, privileged, or proprietary should be clearly marked as such in the proposal. If an applicant chooses to include confidential or proprietary information in the proposal, it will be kept confidential to the extent permitted by law.

#### *H. Pre-Submission Proposal Assistance*

1. The OPPE may not assist individual applicants by reviewing draft proposals or providing advice on how to respond to evaluation criteria. However, the OPPE will respond to questions from individual applicants regarding eligibility criteria, administrative issues related to the submission of the proposal, and requests for clarification regarding the announcement. Any questions should be submitted to [2501Grants@usda.gov](mailto:2501Grants@usda.gov). Additionally, the OPPE will host public teleconferences to address questions and clarify requirements during the open period of

this solicitation. Dates, time, and phone numbers are provided on Page 1 of this announcement.

2. The OPPE will post questions and answers relating to this funding opportunity during its open period on the Frequently Asked Questions (FAQs) section of our website:

[www.partnerships.usda.gov/socially-disadvantaged-farmers-and-ranchers](http://www.partnerships.usda.gov/socially-disadvantaged-farmers-and-ranchers). Reviewing this section of our website will likely save you valuable time. The OPPE will update the FAQs on a weekly basis and conduct teleconferences on an as-needed basis.

3. Visit our website at: [www.partnerships.usda.gov/socially-disadvantaged-farmers-and-ranchers](http://www.partnerships.usda.gov/socially-disadvantaged-farmers-and-ranchers) to review the most recent Terms and Conditions for administering our grants. This version is subject to change upon new program requirements.

4. Applicants selected for funding must inform their participants that USDA, or any of its third-party representatives, may contact them for quality assurance.

### **V. Application Review Information**

#### *A. Evaluation Criteria*

Only eligible entities whose proposals meet the threshold criteria in Section III of this announcement will be reviewed according to the evaluation criteria set forth below. Applicants should explicitly and fully address these criteria as part of their proposal package. Each proposal will be evaluated under the regulations established under 2 CFR part 200.

The Panel will use a point system to rate each proposal, awarding a maximum of 105 points for nonprofit and community-based organizations (70 points, plus an additional 35 priority points for secretarial priorities) and 100 points for all other applicants (70 points, plus an additional 30 discretionary points for secretarial priorities). Each proposal will be reviewed by at least two members of the Panel. Panel members will review and score all submitted applications. The Panel will numerically score and rank each application. Funding decisions will be based on the Panel's rank score. Final funding decisions will be made by the designated approving official and are not appealable.

Please be patient as processing all submitted applications, vetting organizations, proposal reviews, approval process, and agreement creation is a lengthy process. All applicants will be notified electronically of their application status when final selections have been made and will be provided an opportunity for application

feedback as provided within the correspondence.

### EVALUATION CRITERIA FOR NEW GRANTS PROPOSALS

Criteria	Points
<p>1. <i>Project Narrative (up to 30 points):</i> Under this criterion, your proposal must address <i>at least two</i> of the five programmatic mission areas identified in Section I, Part B, Scope of Work and will be evaluated to the extent to which the narrative includes a well-conceived strategy for addressing those requirements and objectives (see Section IV, Part D). Project Narrative, for additional information. Note that applicants may assist <i>either</i> socially disadvantaged farmers and ranchers, or veteran farmers and ranchers, or both groups in their proposal. There are no additional points for addressing both of these groups. Conversely, there are <i>no points deducted</i> if your proposal addresses only one of these groups.</p> <ul style="list-style-type: none"> <li>○ Nongovernmental and community-based organizations with a documented history working with socially disadvantaged and/or veteran farmers or ranchers will automatically receive five (5) priority points (per the 2018 Farm Bill provision for priority status).</li> </ul> <p>In addition, the OPPE may award up to 30 priority points (six points for each bullet shown below) as follows:</p> <ul style="list-style-type: none"> <li>○ Projects with a focus on socially disadvantaged and veteran <ul style="list-style-type: none"> <li>• heirs' property issues/resolutions;</li> <li>• financial literacy and business planning;</li> <li>• increased profitability of agricultural operations of through effective and proven marketing opportunities to increase access to capital and markets.</li> </ul> </li> <li>○ Projects that align with the implementation of Secretarial priorities to: <ul style="list-style-type: none"> <li>• Increase land access, resolve heir's property and other land title issues, advance education and career pathways related to farming, ranching, forestry and agriculture, or increase access to credit;</li> <li>• Provide avenues for producers to be part of strengthening the food supply chain and building a food system that is fair, resilient, distributed, and equitable and that contributes to SDA and veteran producer's ability to make a living, <i>e.g.</i>, via more and better markets;</li> <li>• Promote the use of multiple USDA programs within USDA along with partnering and promoting assistance available outside of USDA (this includes state, local, tribal, and other Federal resources); and</li> <li>• Generate and maintain wealth in and for rural and tribal communities via local and regional business opportunities and other rural development efforts designed to advance economic, social and health equity.</li> </ul> </li> <li>○ Projects that address climate change with climate smart ag and forestry solutions including, but not limited to: <ul style="list-style-type: none"> <li>• Building resilience to climate change and increasing agricultural productivity;</li> <li>• efficient and renewable energy practices; and</li> <li>• soil, land, and water conservation practices that preserve natural and agricultural ecosystems.</li> </ul> </li> <li>○ Projects that focus on removing systemic barriers and increase equitable participation in USDA's programs and services, especially projects located in rural communities and persistent poverty census tracts and/or counties;</li> <li>○ Projects designed to access and create new and fair market opportunities to assist socially disadvantaged, veteran, beginning farmers and/or ranchers (including youth projects).</li> </ul>	<p>Up to 30 of 60.</p> <p>Up to 30 of 60.</p>
<p>2. <i>Programmatic Capability:</i> Under this criterion, applicants will be evaluated based on their ability to successfully complete and manage the proposed project considering the applicant's: Organizational experience, staff expertise and qualifications, and the organization's resources (see Section IV, Part D. Programmatic Capability). The organization must clearly document its historical successes and future plans to continue assisting socially disadvantaged and veteran farmers and ranchers.</p>	Up to 10.
<p>3. <i>Financial Management Experience:</i> Under this criterion, applicants will be evaluated based on their demonstrated ability to successfully complete and manage the proposed project considering the applicants' past performance in successfully completing and managing prior funding agreements (see Section IV, Part D, Financial Management Experience). Past performance documentation on successfully completed projects may be at the Federal, state, or local community level. Per 2 CFR part 200 .205, if an applicant is a prior recipient of Federal awards, their record in managing that award will be reviewed, including timeliness of compliance with applicable reporting requirements and adherence to the terms and conditions of previous Federal awards.</p>	Up to 5.
<p>4. <i>Tracking and Measuring:</i> Under this criterion, the applicant's proposal will be evaluated based upon clearly documenting a detailed plan for tracking and measuring their progress toward completing the expected project outputs (see Section I, Part C Outputs (Activities)). Applicants should indicate how they intend to clearly document the effectiveness of their project in achieving proposed thresholds or benchmarks in relation to stated goals and objectives (see Section I, Part C, 2, Outcomes (Results)). For example, state how your organization plans to connect socially disadvantaged or veteran farmers or ranchers with USDA agricultural programs. Specifically, how many new or existing farmers and ranchers were assisted in <i>applying</i> for USDA's programs and services, versus the number of farmers and ranchers <i>approved</i>. Applicants must clearly demonstrate how they will ensure timely and successful completion of the project with a reasonable time schedule for execution of the tasks associated with the project. This criterion should clearly address how you will quantify the tracking of your progress and measuring the success of your planned project (see Section I, Part C, 3, Performance Measures).</p>	Up to 15.
<p>5. <i>Budget:</i> Under this criterion, your proposed project budget will be evaluated to determine whether costs are reasonable, allowable, allocable, and necessary to accomplish the proposed goals and objectives (see 2 CFR part 200 .404 and Appendix II–D). The proposed budget must provide a detailed breakdown of the approximate funding used for each major activity (see Section IV, Part D. Budget Narrative). Additionally, indirect costs (10 percent maximum) must be appropriately applied. For a list of unallowable costs, see 2 CFR part 200, subpart E.</p>	Up to 10.

#### C. Selection of Panel Members

All eligible applications will be reviewed by the Panel. Panel members are selected based upon training and

experience in assisting socially disadvantaged and veteran farmers and ranchers. This assistance includes, but is not limited to, bringing increased

awareness of USDA's programs and services in underserved communities, outreach, technical assistance, cooperative extension services, civil

rights, education, statistical and ethnographic data collection and analysis, and agricultural programs, and are drawn from a diverse group of experts, including applicant peers, to create a balanced panel.

## VI. Award Administration Information

### A. Award Notices

#### Proposal Notifications and Feedback

1. Successful applicants will be notified by the OPPE via telephone, email, and/or postal mail that its proposed project has been recommended for award. The notification will be sent to the *Project Manager* listed on the SF-424, Application for Federal Assistance. Project Managers should be the Authorized Organizational Representative (AOR) and authorized to sign on behalf of the organization. It is imperative that this individual is responsive to notifications by the OPPE. If the individual is no longer in the position, notify the OPPE immediately to submit the new contact for the application by updating your organization's Key Contacts form and forwarding a résumé of the new key personnel. The grant agreement will be forwarded to the recipient for execution and must be returned to the OPPE Director, who is the authorizing official. Once grant documents are executed by all parties, authorization to begin work will be given. At a minimum, this process can take up to 30 days from the date of notification.

2. Within 10 days of award status notification, unsuccessful applicants may request feedback on their application. Feedback will be provided as expeditiously as possible. Feedback sessions will be scheduled contingent upon the number of requests and in accordance with 7 CFR 2500.026.

### B. Administrative and National Policy Requirements

All awards resulting from this solicitation will be administered in accordance with the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards codified at 2 CFR part 200, as supplemented by USDA implementing regulations at 2 CFR parts 400 and 415, and the OPPE Federal Financial Assistance Programs—General Award Administrative Procedures, 7 CFR part 2500. In compliance with its obligations under Title VI of the Civil Rights Act of 1964 and Executive Order 13166, it is the policy of the OPPE to provide timely and meaningful access for persons with Limited English Proficiency (LEP) to projects, programs, and activities administered by Federal grant recipients. Recipient organizations must comply with these obligations upon acceptance of grant agreements as written in the OPPE's Terms and Conditions. Following these guidelines is essential to the success of our mission to improve access to USDA programs for socially disadvantaged and veteran farmers and ranchers.

### C. Reporting Requirement

Your approved statement of work, timeline, and budget are your guiding documents in carrying out the activities of your project and for your reporting requirements. Familiarize yourself with USDA's grants management system called ezFedGrants: <https://www.nfc.usda.gov/FSS/ClientServices/ezFedGrants/>. In accordance with 2 CFR part 200, the following reporting requirements will apply to awards provided under this FOA. The OPPE reserves the right to revise the schedule and format of reporting requirements as necessary in the award agreement.

1. Semi-annual Progress Reports and Financial Reports will be required as follows:

- *Semi-annual Progress Reports.* The recipient is required to provide a detailed narrative of project performance and activities as described in the award agreement. Semi-annual progress reports must be submitted to the designated OPPE official via ezFedGrants within 30 days after the end of each reporting period. This includes, but is not limited to, activities completed, events held, and the release of sign-in sheets with participants' contact information.

- *Semi-annual Financial Reports.* The recipient must submit SF 425, Federal Financial Report to the designated OPPE official via ezFedGrants within 30 days after the end of each reporting period.

2. Final Progress and Financial Reports will be required upon project completion. The Final Progress Report must include a summary of the project or activity throughout the funding period, achievements of the project or activity, and a discussion of overall successes and issues experienced in conducting the project or project activities. It should convey the impact your project had on the communities you served and discuss the project's accomplishments in achieving expected outcomes. This requirement includes, but is not limited to, the number of new USDA applicants as a result of your award, the number of approved applicants for USDA programs and services, increased awareness of USDA programs and services, etc.

3. The final Financial Report should consist of a complete SF-425 indicating the total costs of the project. Final Progress and Financial Reports must be submitted to the designated OPPE official via ezFedGrants within 120 days after the completion of the award period as follows:

Report	Performance period	Due date	Grace period
Form SF-425, Federal Financial Report & Performance Progress Report ( <i>Due semi-annually</i> ).	1 October thru 31 March; 1 April thru 30 September.	March 31; September 30 .....	30 days until 30 April; 30 days until 30 October.
Final Financial and Progress Reports.	120 days after project completion		

\* Dates subject to change at the discretion of OPPE.

Signed this 20th day of July 2021.

**William Ashton,**

*Acting Director, Office of Partnerships and Public Engagement.*

[FR Doc. 2021-15702 Filed 7-23-21; 8:45 am]

BILLING CODE 3412-89-P

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

[Docket No. RBS-21-BUSINESS-0024]

#### Inviting Applications for the Rural Energy for America Program

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Notice of Solicitation of Applications.

**SUMMARY:** The Rural Business-Cooperative Service (the Agency) Notice of Solicitation of Applications (NOSA) announces the acceptance of grant, guaranteed loan, and combined grant and guaranteed loan applications under the Rural Energy for America Program (REAP). The REAP program helps agricultural producers and rural small businesses reduce energy costs and consumption and helps meet the Nation's critical energy needs. Applications for REAP may be submitted at any time throughout the year. This notice announces the deadlines, dates, and times that applications must be received in order to be considered for federal Fiscal Year (FY) 2022 REAP funds. The NOSA is being issued prior to passage of a final appropriations act for FY22 to allow potential applicants time to submit applications for financial assistance under the program and to give the Agency time to process applications within the current FY. The administrative requirements in effect at the time the application window closes for a competition will be applicable to each type of funding available under REAP. All REAP applications competing for FY22 funding will be scored according to the scoring criteria listed in the final REAP rule. Applicants who have already filed REAP applications for FY22 will be allowed to provide additional information if necessary for application scoring; the modification will not be treated as a new application nor will it alter the submission date of record.

**DATES:** Applications for the Energy Audit and Renewable Energy Development Assistance (EA/REDA) grant program must be submitted via [www.grants.gov](http://www.grants.gov) or to Rural Development offices by no later than 4:30 p.m. local time on January 31,

2022. Applications for the Renewable Energy Systems and Energy Efficiency Improvements (RES/EEI) grant program must be submitted via [www.grants.gov](http://www.grants.gov) or to Rural Development offices by no later than 4:30 p.m. local time on October 31, 2021 to compete for 50 percent FY22 set-aside funding and by no later than 4:30 p.m. local time on March 31, 2022 to compete for remaining FY22 RES/EEI grant funds. RES/EEI and Energy Efficient Equipment and Systems (EEE) guaranteed loan applications are competed on an ongoing basis. See table in Section IV.D. for details on REAP competitions.

**ADDRESSES:** You are encouraged to contact your USDA Rural Development State Energy Coordinator well in advance of the application deadline to discuss your project and ask any questions about the application process. Contact information for Energy Coordinators can be found at [https://rd.usda.gov/files/RBS\\_StateEnergyCoordinators.pdf](https://rd.usda.gov/files/RBS_StateEnergyCoordinators.pdf).

Program guidance and application forms may be obtained at <https://rd.usda.gov/programs-services/all-programs/energy-programs>. To submit an electronic application via [grants.gov](http://grants.gov), follow the instructions for the REAP funding announcement located at <https://www.grants.gov>.

**FOR FURTHER INFORMATION CONTACT:** Deb Yocum, Program Management Division, Rural Business-Cooperative Service, United States Department of Agriculture, 2920 East Court Street, Suite 3, Beatrice, NE 68310, 402-499-1198 or email [CPgrants@usda.gov](mailto:CPgrants@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Overview

*Federal Agency:* Rural Business-Cooperative Service.

*Funding Opportunity Title:* Rural Energy for America Program.

*Announcement Type:* Initial notice.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 10.868.

*Type of Instrument:* Grant, guaranteed loan, and grant and guaranteed loan combined funding.

*Approximate Number of Awards:* The estimated number of awards is 1,000 based on the historical average grant size and the anticipated mandatory funding of \$50 million for the FY. The number of awards will depend on the actual amount of funds made available and on the number of eligible applicants participating in this program.

*Administrator:* The Agency encourages applicants to consider projects that will advance the following key priorities:

- Assisting Rural communities recover economically from the impacts of the COVID-19 pandemic, particularly disadvantaged communities.
- Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects.
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

#### I. Federal Award Information

*Type of Award:* Competitive grants and guaranteed loans.

*Total Funding:* Approximately \$50 million mandatory funding.

*Maximum Award:* See *Funding*

*Restrictions* in Section II of this notice.

*Minimum Award:* See *Funding*

*Restrictions* in Section II of this notice.

*Project Period:* Up to 24 months for grants. Guaranteed loans are governed by the loan terms.

*Anticipated Award Date:* Prior to September 30, 2022.

#### II. Available Funds Information

*Program Level Funds.* This notice is announcing deadline times and dates for applications to be submitted for REAP funds that may be received from the congressional enactment of a full-year appropriation for FY22. The Agency will continue to process applications received under this announcement and should REAP receive appropriated funds, these funds will be announced on the following websites: <https://rd.usda.gov/programs-services/rural-energy-america-program-renewable-energy-systems-energy-efficiency> and <https://rd.usda.gov/programs-services/rural-energy-america-program-energy-audit-renewable-energy-development-assistance>. Expenses incurred in developing applications will be at the applicant's risk.

*Types of Funding and Allocations.* REAP has two types of funding assistance: (1) Renewable Energy Systems, Energy Efficiency Improvements (RES/EEI) and Energy Efficient Equipment and Systems (EEE) and (2) Energy Audit and Renewable Energy Development Assistance (EA/REDA). The RES/EEI provides grants and guaranteed loans to agricultural producers and rural small businesses for the purchase and installation of renewable energy systems and to make energy efficiency improvements. The EEE provides guaranteed loans only to agricultural producers to purchase and install energy efficient equipment and systems for agricultural production and processing. The EA/REDA is available to a unit of State, Tribal, or local

government; instrumentality of a State, Tribal, or local government; institution of higher education; rural electric cooperative; a public power entity; or a council, as defined under the Resource Conservation and Development program at 16 U.S.C. 3451. The grantee will establish a program to assist agricultural producers and rural small businesses with evaluating energy efficiency or the potential to incorporate renewable energy technologies into their operations. The following outlines the types of REAP funding available and a summary of how funds are allocated:

*A. RES/EEI grant funds.*

(1) To ensure that small projects have a fair opportunity to compete for the funding and consistent with the priorities set forth in the 7 U.S.C. 8107, the Agency will set-aside not less than 20 percent of the FY funds until June 30, 2022 to fund grants of \$20,000 or less. Each Rural Development State Office will receive a set-aside allocation of funds for grant requests of \$20,000 or less, which includes combination grant and guaranteed loan requests where the grant amount requested is \$20,000 or less. Complete grant applications requesting \$20,000 or less, including the grant portion of a combined grant and guaranteed loan request, received by October 31, 2021 will compete for approximately 50 percent of the state's set-aside allocation, and those received by March 31, 2022 will compete for the second 50 percent (approximately) of the state's set-aside allocation. Any unobligated balance of funds remaining in state set-aside accounts will be pooled to the National Office for a national set-aside competition. Obligation of set-aside grant funds will take place through June 30, 2022.

(2) Each Rural Development State Office will also receive an unrestricted allocation of grant funds that can be used to fund any RES/EEI grant application regardless of the amount of grant requested, including the grant portion of a combination grant and guaranteed loan request, that is received by March 31, 2022. Any unobligated balance of funds remaining in state unrestricted accounts will be pooled to the National Office for a national competition of funds. Obligation of unrestricted grant funds will take place through September 30, 2022.

*B. RES/EEI and EEE loan guarantee funds.* Rural Development's National Office will maintain a reserve of guaranteed loan funds to fund guaranteed loan only requests or the loan portion of a combined funding request. EEE guaranteed loans for agricultural production and processing shall not exceed 15 percent of the funds

available to the program. Applications will be reviewed and processed when received. Those applications that meet the Agency's underwriting requirements and are credit worthy will compete in national competitions for guaranteed loan funds periodically. If funds remain after the final guaranteed loan-only national competition, the Agency may elect to utilize budget authority to fund additional grant-only applications. For FY22, the guarantee fee rates, the annual renewal fee, the maximum percentage of guarantee and the maximum portion of guarantee authority available for a reduced guarantee fee will be published in a separate notice. Obligation of guaranteed loan funds will take place through September 30.

*C. RES/EEI combined grant and guaranteed loan funds.* Funding availability for combined grant and guaranteed loan applications is outlined in Section II paragraphs A and B of this notice. Combination funding requests are scored using RES/EEI grant scoring criteria. If the combined application is ranked high enough to receive state allocated grant funds, the state will request funding for the guaranteed loan portion of the request from the National Office guaranteed loan reserve and no further competition will be required. If not funded by the state allocation of funds, combined grant and guaranteed loan applications may be submitted to the National Office to compete in the appropriate National Office competition. Obligation of these funds will take place through September 30, 2022.

*D. EA/REDA grant funds.* The amount of funds available for EA/REDA will be 4 percent of FY mandatory funds and funds will be maintained in a National Office reserve. Applications will compete in one national competition. After that date, any unobligated balances will be moved to the renewable energy budget authority account and may be utilized in any of the RES/EEI national grant competitions. Obligations of EA/REDA funds will take place through March 31, 2022.

*Funding Restrictions.* The following funding limitations apply to applications submitted under this notice.

*A. RES/EEI/EEE applications.*

(1) Applicants can compete and be awarded only one RES grant and one EEI grant in a FY, which includes the grant portion of a combined funding request. The Federal grant portion cannot exceed 25 percent of total eligible project costs. The maximum amount of grant assistance to an entity will not exceed \$750,000 in a FY.

(2) For RES grants, the minimum grant is \$2,500 and the maximum is \$500,000. For EEI grants, the minimum grant is \$1,500 and the maximum grant is \$250,000. These minimum and maximum limits also apply to the grant portion of a combined funding request.

(3) For RES/EEI/EEE loan guarantees or the loan guarantee portion of a combined funding request, the minimum REAP guaranteed loan amount is \$5,000 and the maximum amount of a guaranteed loan to be provided to a borrower is \$25 million. Guaranteed loan requests will not exceed 75 percent of total eligible project costs, with any Federal grant portion, as applicable, not to exceed 25 percent of total eligible project costs.

*B. EA/REDA applications.*

(1) Applicants may submit only one EA grant application and one REDA grant application in a FY. Separate applications must be submitted for EA funding and REDA funding. If an application is submitted for both EA and REDA funding or if an application's scope of work includes both EA and REDA activities, it will be determined ineligible for competition. The maximum aggregate amount of EA and REDA grant awards to any one recipient cannot exceed \$100,000 in a FY.

(2) Applicants that have received one or more grants under this program must have made satisfactory progress per 7 CFR 4280.110(a) before being considered for funding.

(3) The Agriculture Improvement Act of 2018, Public Law 115-334 (The 2018 Farm Bill) mandates that the recipient of an EA grant must require the agricultural producer or rural small business receiving the energy audit to pay at least 25 percent of the cost of the energy audit, which shall be retained by the grantee for the cost of the audit.

### III. Eligibility Information

The eligibility requirements for the applicant, borrower, lender, and project (as applicable) are clarified in 7 CFR 4280 subpart B and in 7 CFR 5001 and are summarized in this notice. Failure to meet the eligibility criteria by the time of the competition window will preclude the application from competing until all eligibility criteria have been met.

*A. Eligible Applicants.* Grant applicants must meet the requirements specified in 7 CFR 4280.110. An applicant must also meet the requirements specified at: 7 CFR 4280.112 for RES/EEI grant; 7 CFR 4280.137 for RES/EEI combined grant and guarantee; and 7 CFR 4280.149 for EA/REDA grant.

**B. Eligible Borrowers and Lenders.** To be eligible for the guaranteed loan portion of the program, borrowers must meet the eligibility requirements in 7 CFR 5001.126 and lenders must meet the eligibility requirements in 7 CFR 5001.130.

**C. Eligible Projects.** To be eligible for the program a project must meet the eligibility requirements specified in: 7 CFR 4280.113 for RES/EEI grant; 7 CFR 4280.150 for EA/REDA grant; 7 CFR 4280.137 for RES/EEI combined grant and guarantee; and 7 CFR 5001.106 through § 5001.108, as applicable, for RES/EEI/EEE loan guarantees.

**D. Other.**

(1) *Ineligible project costs* are defined at: 7 CFR 4280.115(d) for RES/EEI grant and combined grant and guaranteed loans; 7 CFR 4280.152(c) for EA/REDA grant; and 7 CFR 5001.122 for RES/EEI/EEE loan guarantees.

(2) *Other compliance requirements.* The U.S. Department of Agriculture Departmental Regulations and Laws that contain other compliance requirements are referenced in paragraphs IV.E of this notice. Applicants who have been found to be in violation of applicable Federal statutes will be ineligible.

(3) *Hemp production.* The Agriculture Improvement Act of 2018, Public Law 115–334, (the 2018 Farm Bill) required USDA to promulgate regulations and guidelines to establish and administer a program for the production of hemp in the United States. Prior to the 2018 Farm Bill, state departments of agriculture and institutions of higher learning were permitted to produce hemp as part of a pilot program for research purposes pursuant to the Agricultural Act of 2014, Public Law 113–79, (the 2014 Farm Bill). The 2018 Farm Bill extended this 2014 Farm Bill pilot program authority until October 31, 2020 and further extension was granted until January 1, 2022, by the Continuing Appropriations Act, 2021, and Other Extensions Act (Pub. L. 116–260) (2021 Continuing Appropriations Act).

In determining eligibility for the applicant, project or use of funds, any project applying for funding under the REAP program and proposing to

produce, procure, supply or market any component of the hemp plant or hemp related by-products, or provide technical assistance related to such products, must have a valid license from an approved State, Tribal or Federal plan pursuant to Section 10113 of the 2018 Farm Bill, be in compliance with regulations published by the Agricultural Marketing Service at 7 CFR 990, and meet any applicable FDA and DEA regulatory requirements. Verification of valid hemp licenses will occur prior to award. In addition, all projects proposing to use biomass feedstock from any part of the hemp plant must demonstrate assurance of an adequate supply of the feedstock.

Given the absence of Federal oversight or regulations governing the 2014 Farm Bill pilot program, Rural Development will not award funds to any project proposing to produce, procure, supply or market any component of the hemp plant or hemp related by-products, or provide technical assistance related to such products, produced under 2014 Farm Bill authority.

#### IV. Application Submission Information

**A. Address to Request Application Package.** Application materials may be obtained by contacting the Rural Development Energy Coordinator for the state where the proposed project will be located, as identified via the following link: [https://www.rd.usda.gov/files/RBS\\_StateEnergyCoordinators.pdf](https://www.rd.usda.gov/files/RBS_StateEnergyCoordinators.pdf). In addition, for grant applications, applicants may obtain electronic grant applications for REAP from [www.grants.gov](http://www.grants.gov).

**B. Content and Form of Application Submission.** Applicants seeking to participate in this program must submit applications in accordance with this notice, 7 CFR 4280, subpart B and 7 CFR 5001, as applicable. Applicants must submit complete applications by the dates identified in Section IV.D., of this notice, containing all parts necessary for the Agency to determine applicant and project eligibility, to score the application, and to conduct the

technical evaluation, as applicable, in order to be considered. Applicants who have already filed REAP applications for FY22 will be allowed to provide additional information necessary for application scoring, and the modification will not be treated as a new application nor will it alter the submission date of record as noted in 7 CFR 4280.110(d).

**C. Submission.** Applicants must submit one original, hardcopy or electronic application to the appropriate Rural Development Energy Coordinator for the State where the applicant's proposed project will be located, or for grant applications submission may be via [www.grants.gov](http://www.grants.gov). A list of USDA Rural Development Energy Coordinators is available via the following link: [https://www.rd.usda.gov/files/RBS\\_StateEnergyCoordinators.pdf](https://www.rd.usda.gov/files/RBS_StateEnergyCoordinators.pdf).

**D. Submission Dates and Times.** Grant applications, guaranteed loan-only applications, and combined grant and guaranteed loan applications for financial assistance may be submitted at any time on an ongoing basis. Application competition deadlines are outlined in 7 CFR 4280.122 for RES/EEI grants and 7 CFR 4280.156 for EA/REDA grants and competition deadlines are summarized in the table below. RES/EEI/EEE guaranteed loans will be reviewed and processed when received for periodic competitions. In order to be considered for funds under this notice, complete applications must be received by the appropriate USDA Rural Development State Office Energy Coordinator or via [www.grants.gov](http://www.grants.gov) by 4:30 p.m. local time on the competition deadline. The complete application date is the date the Agency receives the last piece of information that allows the Agency to determine eligibility and to score, rank, and compete the application for funding. When an application window closes, the next application window opens on the following day. An application received after the competition date will be considered with other complete applications received in the next application window.

Application	Application window opening dates	Application window closing dates/competition deadlines
EA/REDA .....	February 2, 2021 .....	January 31, 2022.*
RES/EEI—\$20,000 or less set-aside. Grant only request or a combination grant and guaranteed loan where the grant request is \$20,000 or less, competing for up to approximately 50 percent of state set-aside funds.	April 1, 2021 .....	October 31, 2021.
RES/EEI—\$20,000 or less set-aside. Grant only request or a combination grant and guaranteed loan where the grant request is \$20,000 or less competing for the remaining state set-aside funds.	November 1, 2021 ...	March 31, 2022.*

Application	Application window opening dates	Application window closing dates/ competition deadlines
RES/EEI—Unrestricted grants. Grant only request or a combination grant and guaranteed loan regardless of the amount of grant request.	April 1, 2021 .....	March 31, 2022.*
RES/EEI/EEE Guaranteed Loans .....	Continuous application cycle.	Continuous application cycle.

\* Applications received after this date will be considered for the next funding cycle in the subsequent FY.

E. *Other Submission Requirements.* The following are applicable for all REAP applications:

(1) *Environmental information.* For the Agency to consider an application, the application must address all environmental considerations specific to the project in accordance with 7 CFR 1970 and provide supporting documentation as necessary. An environmental review must be completed prior to approval of the application and obligation of funds. Applicants are advised to contact the Agency as soon as possible and prior to commissioning a project to determine environmental requirements and ensure adequate review time.

(2) *Transparency Act Reporting.* All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation in accordance with 2 CFR 170. If an applicant does not have an exception under 2 CFR 170.110(b), the applicant must then ensure that they have the necessary processes and systems in place to comply with the reporting requirements to receive funding.

(3) *Race, ethnicity, and gender.* The Agency is requesting that each applicant provide race, ethnicity, and gender information about the applicant. The information will allow the Agency to evaluate its outreach efforts to underserved and under-represented populations. Applicants are encouraged to furnish this information with their application but are not required to do so. An applicant's eligibility or the likelihood of receiving an award will not be impacted by furnishing or not furnishing this information.

#### V. Application Review Information

A. *Scoring.* All complete applications will be scored in accordance with the following: 7 CFR 4280.121 for RES/EEI grants and RES/EEI combined grant and loan guarantee requests; 7 CFR 4280.155 for EA/REDA grants; and 7 CFR 5001.319 for RES/EEI/EEE guaranteed loans.

B. *Competitions.* The maximum number of competitions a complete and eligible application will be able to

compete within the FY is outlined in 7 CFR 4280.122 for RES/EEI grants, 7 CFR 4280.156 for EA/REDA grants, and 7 CFR 5001.315 for guaranteed loans. If the application remains unfunded after the final National Office competition for the FY it must be withdrawn.

C. *Notification of funding determination.* As per 7 CFR 4280.111(c) and 7 CFR 5001.315(b)(2), all applicants will be informed in writing by the Agency as to the funding determination of the application.

#### VI. Other Information

A. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995, the information collection requirements associated with the programs, as covered in this notice, have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570-0067.

B. *Nondiscrimination Statement.* In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410; or

(2) *Email:* [OAC@usda.gov](mailto:OAC@usda.gov).

USDA is an equal opportunity provider, employer, and lender.

**Mark Brodziski,**

*Acting Administrator, Rural Business-Cooperative Service.*

[FR Doc. 2021-15785 Filed 7-23-21; 8:45 am]

**BILLING CODE 3410-XY-P**

## DEPARTMENT OF COMMERCE

### Economic Development Administration

#### Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration, Department of Commerce.

**ACTION:** Notice and opportunity for public comment.

**SUMMARY:** The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

## SUPPLEMENTARY INFORMATION:

## LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[6/25/2021 through 7/8/2021]

Firm name	Firm address	Date accepted for investigation	Product(s)
Superior Tool Service, Inc .....	722 East Zimmerly Street, Wichita, KS 67211.	6/25/2021	The firm manufactures cutting tools for metal working and drill bits.
Kryton Engineered Metals, Inc .....	7314 Chancellor Drive, Cedar Falls, IA 50613.	6/30/2021	The firm manufactures miscellaneous metal parts.
R&R Holdings, Inc. d/b/a R&R Aerospace.	2615 West Esthner Court, Wichita, KS 67213.	7/6/2021	The firm manufactures aerospace parts and assemblies.
The EDM Department, Inc. d/b/a EDM Intelligent Solutions.	1261 Humbracht Circle, Bartlett, IL 60103.	7/6/2021	The firm manufactures miscellaneous metal parts.
NanoLumens, Inc .....	5390 Triangle Parkway, Peachtree Corners, GA 30092.	7/7/2021	The firm manufactures digital display screens.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.8 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

**Bryan Borlik,**  
Director.

[FR Doc. 2021-15876 Filed 7-23-21; 8:45 am]

**BILLING CODE 3510-WH-P**

International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4793, (202) 482-3315, and (202) 482-3609, respectively.

## SUPPLEMENTARY INFORMATION:

## The Petitions

On June 30, 2021, the U.S. Department of Commerce (Commerce) received countervailing duty (CVD) petitions concerning imports of urea ammonium nitrate solutions (UAN) from the Russian Federation (Russia) and the Republic of Trinidad and Tobago (Trinidad and Tobago), filed in proper form on behalf of CF Industries Nitrogen, LLC and its subsidiaries, Terra Nitrogen, Limited Partnership and Terra International (Oklahoma) LLC (collectively, the petitioner), a domestic producer of UAN.<sup>1</sup>

On July 6 and 13, 2021, Commerce requested supplemental information pertaining to certain aspects of the Petitions.<sup>2</sup> The petitioner filed

responses to these requests on July 8 and 14, 2021.<sup>3</sup>

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of Russia (GOR) and the Government of Trinidad and Tobago (GOTT) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of UAN in Russia and Trinidad and Tobago, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing UAN in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating CVD investigations, the Petitions were accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry

## DEPARTMENT OF COMMERCE

## International Trade Administration

[C-821-832, C-274-809]

**Urea Ammonium Nitrate Solutions From the Russian Federation and the Republic of Trinidad and Tobago: Initiation of Countervailing Duty Investigations**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable July 20, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Kristen Johnson and John Hoffner (Russia) or Ariela Garvett (Trinidad and Tobago), AD/CVD Operations, Offices III and IV, Enforcement and Compliance,

<sup>1</sup> See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties: Urea Ammonium Nitrate Solutions from the Russian Federation and the Republic of Trinidad and Tobago," dated June 30, 2021 (the Petitions).

<sup>2</sup> See Commerce's Letters, "Petition for the Imposition of Countervailing Duties on Imports of Urea Ammonium Nitrate Solutions from Russia: Supplemental Questions," dated July 6, 2021 (General Issues Questionnaire Russia); "Petition for the Imposition of Countervailing Duties on Imports of Urea Ammonium Nitrate Solutions from Russia: Supplemental Questions," dated July 6, 2021; "Petition for the Imposition of Countervailing Duties on Imports of Urea Ammonium Nitrate Solutions from Trinidad and Tobago: Supplemental Questions," dated July 6, 2021 (General Issues Questionnaire Trinidad and Tobago); and "Petition for the Imposition of Countervailing Duties on Imports of Urea Ammonium Nitrate Solutions from Russia: Supplemental Questions on the Provision of Phosphate Mining Rights for Less Than Adequate Remuneration," dated July 13, 2021.

<sup>3</sup> See Petitioner's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Urea Ammonium Nitrate Solutions from Russia and Trinidad and Tobago: Petitioner's Response to the Department's General Issues Questionnaire," dated July 8, 2021 (General Issues Supplement); "Petition for the Imposition of Countervailing Duties on Imports of Urea Ammonium Nitrate Solutions from Russia: Response to the Department's Supplemental Questions," dated July 8, 2021; "Petition for the Imposition of Countervailing Duties on Imports of Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: Petitioner's Response to the Department's Supplemental Questions," dated July 8, 2021; and "Petition for the Imposition of Countervailing Duties on Imports of Urea Ammonium Nitrate Solutions from Russia: Petitioner's Response to the Department's Second Supplemental Questionnaire" dated July 14, 2021.

support with respect to the initiation of the requested CVD investigations.<sup>4</sup>

### Periods of Investigation

Because the Petitions were filed on June 30, 2021, the periods of investigation (POI) are January 1, 2020, through December 31, 2020.<sup>5</sup>

### Scope of the Investigations

The merchandise covered by these investigations are UAN from Russia and Trinidad and Tobago. For a full description of the scope of these investigations, *see* the Appendix to this notice.

### Comments on Scope of the Investigations

On July 6, 2021, Commerce requested further information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.<sup>6</sup> On July 8, 2021, the petitioner revised the scope.<sup>7</sup> The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).<sup>8</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>9</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on August 9, 2021, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 19, 2021, which is ten calendar days from the initial comment deadline.<sup>10</sup>

Commerce requests that any factual information the parties consider relevant to the scope of the

investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must be filed on the record of the concurrent antidumping (AD) investigations.

### Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.<sup>11</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>12</sup>

### Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOR and the GOTT of the receipt of the Petitions and provided it the opportunity for consultations with respect to the Petitions.<sup>13</sup> Commerce held consultations with the GOR and the GOTT on July 12, 2021, and July 14, 2021, respectively.<sup>14</sup>

<sup>11</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); *see also* *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>12</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

<sup>13</sup> See Commerce's Letter, "Countervailing Duty Petition on Urea Ammonium Nitrate Solutions (UAN) from the Russian Federation: Invitation for Consultations," dated June 30, 2021; and Commerce's Letter, "Countervailing Duty Petition on Urea Ammonium Nitrate Solutions (UAN) from the Republic of Trinidad and Tobago: Invitation for Consultations," dated June 30, 2021.

<sup>14</sup> See Memoranda, "Countervailing Duty Petition on Urea Ammonium Nitrate Solutions from the Russian Federation: Consultations with Officials from the Government of Russia," dated July 13, 2021; and "Countervailing Duty Petition on Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: Consultations with Officials from the Government of Trinidad and Tobago," dated July 14, 2021.

### Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,<sup>15</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>16</sup>

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to

<sup>15</sup> See section 771(10) of the Act.

<sup>16</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989)).

<sup>4</sup> See "Determination of Industry Support for the Petitions" section, *infra*.

<sup>5</sup> See 19 CFR 351.204(b)(2).

<sup>6</sup> See General Issues Questionnaire Russia at 3; *see also* General Issues Questionnaire Trinidad and Tobago at 3.

<sup>7</sup> See General Issues Supplement at I-1 and I-2.

<sup>8</sup> See *Countervailing Duties*, 62 FR 27323 (May 19, 1997) (*Preamble*).

<sup>9</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

<sup>10</sup> See 19 CFR 351.303(b).

be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.<sup>17</sup> Based on our analysis of the information submitted on the record, we have determined that UAN, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>18</sup>

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the appendix to this notice. To establish industry support, the petitioner provided its own 2020 production of the domestic like product.<sup>19</sup> Additionally, the petitioner provided letters of support from other producers of UAN, stating their support for the Petitions and providing their own production, or estimated production, of the domestic like product in 2020.<sup>20</sup> The petitioner also provided the 2020 production of the entire U.S. industry using published monthly 2020 U.S. UAN production data.<sup>21</sup> The petitioner added its 2020 UAN production to that of the domestic producers expressing support for the petitions, and compared the total to the 2020 U.S. UAN production data.<sup>22</sup> We relied on the data provided by the petitioner for purposes of measuring industry support.<sup>23</sup>

<sup>17</sup> See Volume I of the Petitions at I–15 through I–19 and Exhibits I–3, I–8, I–12, I–14, I–18, and I–25 through I–27.

<sup>18</sup> For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see Checklists, “Countervailing Duty Investigation Initiation Checklists: Urea Ammonium Nitrate Solutions from the Russian Federation and the Republic of Trinidad and Tobago (Country-Specific CVD Initiation Checklists) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Urea Ammonium Nitrate Solutions from the Russian Federation and the Republic of Trinidad and Tobago (Attachment II). These checklists are dated concurrently with this notice and on file electronically via ACCESS.

<sup>19</sup> See Volume I of the Petitions at I–4 through I–5 and Exhibit I–6.

<sup>20</sup> See Volume I of the Petitions at I–4 and Exhibits I–5 and I–6.

<sup>21</sup> See Volume I of the Petitions at I–4 and Exhibit I–6; see also General Issues Supplement at I–3 through I–4 and Exhibits I–49, I–51, and I–52.

<sup>22</sup> See Volume I of the Petitions at I–4 through I–5 and Exhibits I–6 and I–7; see also General Issues Supplement at I–3 through I–4 and Exhibits I–51 and I–52.

<sup>23</sup> See Volume I of the Petitions at I–4 through I–5 and Exhibits I–1, I–2, and I–5 through I–7; see

Our review of the data provided in the Petitions, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.<sup>24</sup> First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>25</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>26</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>27</sup> Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.<sup>28</sup>

### Injury Test

Because Russia and Trinidad and Tobago are “Subsidies Agreement Countries” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Russia and Trinidad and Tobago materially injure, or threaten material injury to, a U.S. industry.

### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the

also General Issues Supplement at I–3 through I–4 and Exhibits I–49 through I–52.

<sup>24</sup> *Id.* For further discussion, see Attachment II of the Country-Specific CVD Initiation Checklists.

<sup>25</sup> *Id.*; see also section 702(c)(4)(D) of the Act.

<sup>26</sup> See Attachment II of the Country-Specific CVD Initiation Checklists.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

negligibility threshold provided for under section 771(24)(A) of the Act.<sup>29</sup>

The petitioner contends that the industry’s injured condition is illustrated by a significant and increasing volume of subject imports; impacts on market share; underselling and price suppression; lost sales and revenues; flatlined production, capacity utilization, and employment variables; and declining financial performance.<sup>30</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>31</sup> In accordance with section 771(7)(G)(ii)(III) of the Act, which provides an exception to the mandatory cumulation provision for imports from any country designated as a beneficiary country under the Caribbean Basin Economic Recovery Act (CBERA), we considered the petitioner’s allegation of injury with respect to Trinidad and Tobago, a designated beneficiary under CBERA, independently of the allegation for Russia and found that the information provided satisfies the requirements for initiation.<sup>32</sup>

### Initiation of CVD Investigations

Based upon the examination of the Petitions on UAN from Russia and Trinidad and Tobago, we find that the Petitions meet the requirements of section 702 of the Act. Therefore, we are initiating CVD investigations to determine whether imports of UAN from Russia and Trinidad and Tobago benefit from countervailable subsidies conferred by the GOR and the GOTT, respectively. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of this initiation.

### Russia

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on all the alleged

<sup>29</sup> See Volume I of the Petitions at I–24 through I–25 and Exhibit I–32.

<sup>30</sup> See Volume I of the Petitions at I–20 through I–40 and Exhibits I–2, I–3, I–10, I–12, I–24, I–26 and I–28 through I–48.

<sup>31</sup> See Country-Specific CVD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Urea Ammonium Nitrate Solutions from the Russian Federation and the Republic of Trinidad and Tobago (Attachment III).

<sup>32</sup> *Id.*

programs. For a full discussion of the basis for our decision to initiate on each program, *see* the Russia Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

### Trinidad and Tobago

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on all the alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the Trinidad and Tobago Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

### Respondent Selection

The petitioner named four companies in Russia and one company in Trinidad and Tobago as producers/exporters of UAN.<sup>33</sup> Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in these investigations.

With respect to Russia, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of UAN from Russia during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the "Scope of the Investigation," in the appendix.

On July 9, 2021, Commerce released CBP data for U.S. imports of UAN from Russia under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation.<sup>34</sup> Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <https://enforcement.trade.gov/apo>.

With respect to Trinidad and Tobago, although Commerce normally relies on import data from CBP to determine whether to select a limited number of

producers/exporters for individual examination in CVD investigations, the petitioner identified only one company as a producer/exporter of UAN in Trinidad and Tobago, Methanol Holdings (Trinidad) Limited (MHTL), and provided information from independent sources as support.<sup>35</sup> Furthermore, we currently know of no additional producers/exporters of UAN from Trinidad and Tobago. Accordingly, Commerce intends to examine the only known producer/exporter in the Trinidad and Tobago investigation (*i.e.*, MHTL). Interested parties wishing to comment on respondent selection for the Trinidad and Tobago investigation must do so within three business days of the publication date of this notice of initiation.

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above, unless an exception applies. Commerce intends to finalize its decision regarding respondent selection within 20 days of the publication of this notice.

### Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petitions has been provided to the GOR and GOTT via ACCESS.

Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

### ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of UAN from Russia and Trinidad and Tobago are materially injuring or threatening material injury to a U.S. industry.<sup>36</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country.<sup>37</sup> Otherwise, the investigations will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>38</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>39</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties wishing to submit factual information in these investigations are asked to review the regulations prior to submitting factual information in these investigations.

### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances Commerce will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013),

<sup>33</sup> See Volume III of the Petitions at III–2; *see also* Volume V of the Petitions at V–2.

<sup>34</sup> See Memorandum, "Countervailing Duty Petition on UAN from Russia: Release of Customs Data from U.S. Customs and Border Protection," dated July 9, 2021.

<sup>35</sup> See Volume V of the Petitions at V–1.

<sup>36</sup> See section 703(a) of the Act.

<sup>37</sup> *Id.*

<sup>38</sup> See 19 CFR 351.301(b).

<sup>39</sup> See 19 CFR 351.301(b)(2).

available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting extension requests or factual information in these investigations.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>40</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>41</sup> Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Commerce website at <https://enforcement.trade.gov/apo>. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing a letter of appearance).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 20, 2021.

**Ryan Majerus,**

*Deputy Assistant Secretary for Policy and Negotiations.*

### Appendix—Scope of the Investigations

The merchandise covered by these investigations is all mixtures of urea and ammonium nitrate in aqueous or ammonia solution, regardless of nitrogen concentration by weight, and regardless of the presence of additives, such as corrosion inhibitors and soluble micro or macronutrients (UAN).

Subject merchandise includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, adding or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the subject country.

The scope also includes UAN that is commingled with UAN from sources not subject to these investigations. Only the subject component of such commingled products is covered by the scope of these investigations.

The covered merchandise is currently classified in the Harmonized Tariff Schedule

of the United States (HTSUS) at subheading 3102.80.0000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope is dispositive.

[FR Doc. 2021–15890 Filed 7–23–21; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–821–831, A–274–808]

### Urea Ammonium Nitrate Solutions From the Russian Federation and the Republic of Trinidad and Tobago: Initiation of Less-Than-Fair-Value Investigations

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable July 20, 2021.

**FOR FURTHER INFORMATION CONTACT:** Laura Griffith at (202) 482–6430 (the Russian Federation (Russia)) or Lilit Astvatsatrian at (202) 482–6412 or Dakota Potts at (202) 482–0223 (the Republic of Trinidad and Tobago); AD/CVD Operations, Offices III and IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

### SUPPLEMENTARY INFORMATION:

#### The Petitions

On June 30, 2021, the Department of Commerce (Commerce) received antidumping duty (AD) petitions (the Petitions) concerning imports of Urea Ammonium Nitrate Solutions (UAN) from Russia and Trinidad and Tobago, filed in proper form on behalf of CF Industries Nitrogen, LLC and its subsidiaries, Terra Nitrogen, Limited Partnership and Terra International (Oklahoma) LLC (collectively, the petitioner), domestic producers of UAN.<sup>1</sup> The Petitions were accompanied by countervailing duty (CVD) petitions concerning imports of UAN from Russia and Trinidad and Tobago.<sup>2</sup>

On July 2 and 6, 2021, Commerce requested supplemental information pertaining to certain aspects of the Petitions.<sup>3</sup> The petitioner filed

responses to these requests on July 7 and 8, 2021.<sup>4</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of UAN from Russia and Trinidad and Tobago are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the UAN industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigations.<sup>5</sup>

### Periods of Investigation

Because the Petitions were filed on June 30, 2021, the period of investigation (POI) for the Russia and Trinidad and Tobago AD investigations is April 1, 2020, through March 31, 2021, pursuant to 19 CFR 351.204(b)(1). The petitioner argued that Commerce should determine in this investigation that Russia is a nonmarket economy (NME) within the meaning of section 771(18)(A) of the Act and should calculate normal value (NV) for Russia in accordance with its NME methodology.<sup>6</sup> Under that allegation,

and Tobago: Supplemental Questions,” dated July 2, 2021; “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Urea Ammonium Nitrate Solutions from Russia and Trinidad and Tobago: Supplemental Questions,” dated July 6, 2021 (General Issues Supplement Questions); and “Petition for the Imposition of Antidumping Duties on Imports of Urea Ammonium Nitrate Solutions from the Russian Federation: Supplemental Questions,” dated July 6, 2021.

<sup>4</sup> See Petitioner’s Letters, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Urea Ammonium Nitrate Solutions from Russia and Trinidad and Tobago: Petitioner’s Response to the Department’s General Issues Questionnaire,” dated July 8, 2021 (General Issues Supplement); “Petition for the Imposition of Antidumping Duties on Imports of Urea Ammonium Nitrate Solutions from Trinidad and Tobago: Petitioner’s Response to the Department’s Supplemental Questions,” dated July 7, 2021; and “Petition for the Imposition of Antidumping Duties on Imports of Urea Ammonium Nitrate Solutions from the Russian Federation: Petitioner’s Response to the Department’s Supplemental Questions,” dated July 8, 2021 (Russia AD Supplement).

<sup>5</sup> See *infra*, section on “Determination of Industry Support for the Petitions.”

<sup>6</sup> See Petitions at Volume II at II–6 through II–28 and Exhibits II–22 through II–72.

<sup>40</sup> See section 782(b) of the Act.

<sup>41</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [https://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>1</sup> See Petitioner’s Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties: Urea Ammonium Nitrate Solutions from the Russian Federation and the Republic of Trinidad and Tobago,” dated June 30, 2021 (the Petitions).

<sup>2</sup> *Id.*

<sup>3</sup> See Commerce’s Letters, “Petition for the Imposition of Antidumping Duties on Imports of Urea Ammonium Nitrate Solutions from Trinidad

the appropriate POI is October 1, 2020, through March 31, 2021.

### Scope of the Investigations

The product covered by these investigations is UAN from Russia and Trinidad and Tobago. For a full description of the scope of these investigations, see the appendix to this notice.

### Comments on the Scope of the Investigations

On July 6, 2021, Commerce requested further information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.<sup>7</sup> On July 8, 2021, the petitioner revised the scope.<sup>8</sup> The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period of time for interested parties to raise issues regarding product coverage (*i.e.*, scope).<sup>9</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>10</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on August 9, 2021, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 19, 2021, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

### Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>11</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>12</sup>

### Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of UAN to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe UAN, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical

characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on August 9, 2021, which is 20 calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 p.m. ET on August 19, 2021. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,<sup>13</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different

<sup>11</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at [https://access.trade.gov/help/Handbook\\_on\\_Electronic\\_Filing\\_Procedures.pdf](https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf).

<sup>12</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

<sup>13</sup> See section 771(10) of the Act.

<sup>7</sup> See General Issues Supplement Questions at 3.

<sup>8</sup> See General Issues Supplement at I-1 and I-2.

<sup>9</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>10</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>14</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.<sup>15</sup> Based on our analysis of the information submitted on the record, we have determined that UAN, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>16</sup>

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the appendix to this notice. To establish industry support, the petitioner provided its own 2020 production of the domestic like product.<sup>17</sup> Additionally, the petitioner provided letters of support from other producers of UAN, stating their support for the Petitions and providing their own production of the domestic like product in 2020.<sup>18</sup> The petitioner also provided the 2020 production of the entire U.S. industry using published monthly 2020 U.S. UAN production

data.<sup>19</sup> The petitioner added its 2020 UAN production to that of the domestic producers expressing support for the petitions, and compared the total to the 2020 U.S. UAN production data.<sup>20</sup> We relied on the data provided by the petitioner for purposes of measuring industry support.<sup>21</sup>

Our review of the data provided in the Petitions, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.<sup>22</sup> First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>23</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>24</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>25</sup> Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.<sup>26</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition,

the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>27</sup>

The petitioner contends that the industry’s injured condition is illustrated by a significant and increasing volume of subject imports; impacts on market share; underselling and price suppression; lost sales and revenues; flatlined production, capacity utilization, and employment variables; and declining financial performance.<sup>28</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>29</sup> In accordance with section 771(7)(G)(ii)(III) of the Act, which provides an exception to the mandatory cumulation provision for imports from any country designated as a beneficiary country under the Caribbean Basin Economic Recovery Act (CBERA), we considered the petitioner’s allegation of injury with respect to Trinidad and Tobago, a designated beneficiary under CBERA, independently of the allegation for Russia and found that the information provided satisfies the requirements for initiation.<sup>30</sup>

#### Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of UAN from Russia and Trinidad and Tobago. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the Country-Specific AD Initiation Checklists.

#### U.S. Price

For Russia and Trinidad and Tobago, the petitioner based export price (EP) on transaction-specific average unit values (AUVs) derived from official import statistics for imports under HTSUS subheading 3102.80.0000 obtained from the ITC’s Dataweb and tied to ship

<sup>14</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>15</sup> See Petitions at Volume I at I-15 through I-19 and Exhibits I-3, I-8, I-12, I-14, I-18, and I-25— I-27.

<sup>16</sup> For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see Checklists, “Antidumping Duty Investigation Initiation Checklists: Urea Ammonium Nitrate Solutions from the Russian Federation and the Republic of Trinidad and Tobago,” (Country-Specific AD Initiation Checklists) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Urea Ammonium Nitrate Solutions from the Russian Federation and the Republic of Trinidad and Tobago (Attachment II). These checklists are dated concurrently with this notice and on file electronically via ACCESS.

<sup>17</sup> See Petitions at Volume I at I-4 through I-5 and Exhibit I-6.

<sup>18</sup> See Petitions at Volume I at I-4 and Exhibits I-5 and I-6.

<sup>19</sup> See Petitions at Volume I at I-4 and Exhibit I-6; see also General Issues Supplement at I-3 through I-4 and Exhibits I-49, I-51, I-52.

<sup>20</sup> See Petitions at Volume I at I-4 through I-5 and Exhibits I-6 and I-7; see also General Issues Supplement at I-3 through I-4 and Exhibits I-51, and I-52.

<sup>21</sup> See Petitions at Volume I at I-4 through I-5 and Exhibits I-1, I-2, and I-5 through I-7; see also General Issues Supplement at I-3 through I-4 and Exhibits I-49 through I-52.

<sup>22</sup> *Id.* For further discussion, see Attachment II of the Country-Specific AD Initiation Checklists.

<sup>23</sup> *Id.*; see also section 732(c)(4)(D) of the Act.

<sup>24</sup> See Attachment II of the Country-Specific AD Initiation Checklists.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> See Petitions at Volume I at I-24 through I-25 and Exhibit I-32.

<sup>28</sup> See Petitions at Volume I at I-20 through I-40 and Exhibits I-2, I-3, I-10, I-12, I-24, I-26, and I-28 through I-48.

<sup>29</sup> See Country-Specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Urea Ammonium Nitrate Solutions from the Russian Federation and the Republic of Trinidad and Tobago (Attachment III).

<sup>30</sup> *Id.*

manifest data.<sup>31</sup> The petitioner made certain adjustments to U.S. price to calculate a net ex-factory U.S. price.<sup>32</sup>

#### Normal Value<sup>33</sup>

For Trinidad and Tobago, the petitioner stated that home market prices were not available and, as such, based NV on third country prices using Canadian import AUVs for the POI.<sup>34</sup>

For Russia, the petition included NV using both the NME and market economy (ME) methodologies.<sup>35</sup> The petitioner based the ME NV on Russian UAN prices derived from an information subscription service that tracks energy and commodity prices.<sup>36</sup> The petition based the NME NV on factors of production (FOPs) valued in a surrogate market economy country in accordance with section 773(c) of the Act.<sup>37</sup> The petitioner claims that Poland is an appropriate surrogate country for Russia because Poland is a market economy country that is at a level of economic development comparable to that of Russia and is a significant producer of identical merchandise.<sup>38</sup> The petitioner provided publicly available information from Poland to value all FOPs.<sup>39</sup> Based on the petitioner's allegation and information provided in the petition, Poland was used for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selections and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

#### Factors of Production

Because information regarding the volume of inputs consumed by Russian producers/exporters was not reasonably available, the petitioner used its own

product-specific consumption rates as a surrogate to value Russian manufacturers' FOPs.<sup>40</sup> Additionally, the petitioner calculated factory overhead; selling, general and administrative expenses; and profit based on the experience of a Polish producer of comparable merchandise.<sup>41</sup>

#### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of UAN from Russia and Trinidad and Tobago are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margin for UAN from Trinidad and Tobago is 158.81 percent.<sup>42</sup> Under the ME methodology, the estimated dumping margins for UAN from Russia are 169.96 percent and 391.65 percent for purposes of initiation. In light of the petitioner's allegation in the petition that Russia is an NME, under its NME methodology, the estimated dumping margins for UAN from Russia are 245.98 percent and 433.37 percent for purposes of initiation.<sup>43</sup>

#### Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of UAN from Russia and Trinidad and Tobago are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

#### Respondent Selection

##### Russia

In the Petitions, the petitioner identified four companies as producers/exporters of UAN in Russia (*i.e.*, EuroChem, Acron Group (Acron), PJSC Kuibyshev Azot, and SBU Azot). We intend to issue quantity and value (Q&V) questionnaires to each potential respondent in Russia identified in the Petitions. In the event Commerce

determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on responses to the Q&V questionnaires.

Producers/exporters of UAN from Russia that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement and Compliance (E&C)'s website at <https://enforcement.trade.gov/questionnaires/questionnaires-ad.html>. The Q&V response must be submitted by the relevant exporters/producers in Russia no later than 5:00 p.m. ET on August 3, 2021, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically via ACCESS.

##### Trinidad and Tobago

In the Petitions, the petitioner identified one company in Trinidad and Tobago as producer/exporter of UAN (*i.e.*, Methanol Holdings (Trinidad) Limited) and provided independent, third party information for support.<sup>44</sup> We currently know of no additional producers or exporters of UAN from Trinidad and Tobago. Accordingly, Commerce intends to individually examine all known producers and exporters in the investigation of UAN from Trinidad and Tobago (*i.e.*, Methanol Holdings (Trinidad) Limited).

Parties wishing to comment on respondent selection for Trinidad and Tobago must do so within three business days of the publication of this notice in the **Federal Register**. Commerce will not accept rebuttal comments regarding respondent selection for Trinidad and Tobago.

Comments on respondent selection must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <http://enforcement.trade.gov/apo>.

#### Separate Rates

Upon applying an NME methodology, Commerce will consider assigning separate rates to exporters and producers. In order to obtain separate-

<sup>31</sup> See Country-Specific AD Initiation Checklists.

<sup>32</sup> *Id.*

<sup>33</sup> In accordance with section 773(b)(2) of the Act, for the Russia and Trinidad and Tobago investigations, Commerce will request information necessary to calculate the constructed value (CV) and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

<sup>34</sup> See Trinidad and Tobago AD Initiation Checklist.

<sup>35</sup> See Russia AD Initiation Checklist.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> See Petitions at Volume II at II-29 and Exhibits II-73 through II-75.

<sup>39</sup> See Petitions at Volume II at II-30 through II-31 and Exhibits II-77 through II-81; *see also* Russia AD Supplement at II-3 through II-4 and Exhibits II-88, II-90, and II-91.

<sup>40</sup> See Petitions at Volume II at II-29 and II-30 and Exhibit II-76; *see also* Russia AD Supplement at II-2 and II-3 and Exhibit II-86.

<sup>41</sup> See Petitions at Volume II at II-29 and II-30 and Exhibits II-77 through II-81; *see also* Russia AD Supplement at II-3 and II-4 and Exhibits II-88 and II-91.

<sup>42</sup> See Country-Specific AD Initiation Checklist for details of these margin calculations.

<sup>43</sup> See Country-Specific AD Initiation Checklist for details of these margin calculations.

<sup>44</sup> See Petitions at Volume I at I-14 and Exhibit I-4; *see also* Petitions at Volume IV at Exhibit IV-7.

rate status in an NME investigation, exporters and producers must submit a separate-rate application.<sup>45</sup> The specific requirements for submitting a separate-rate application in an NME investigation are outlined in detail in the application itself, which will be available on E&C's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.<sup>46</sup> Exporters and/or producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that respondents from Russia submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

#### Use of Combination Rates

Upon applying an NME methodology, Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>47</sup>

<sup>45</sup> See Policy Bulletin 05.1: "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving NME Countries," (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

<sup>46</sup> Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

<sup>47</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

#### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Russia and Trinidad and Tobago via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

Commerce will notify the ITC of its initiation, as required by section 732(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that subject imports are materially injuring or threatening material injury to a U.S. industry.<sup>48</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country.<sup>49</sup> Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>50</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>51</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to

submitting factual information in these investigations.

#### Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that "if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology." When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the

<sup>48</sup> See section 733(a) of the Act.

<sup>49</sup> *Id.*

<sup>50</sup> See 19 CFR 351.301(b).

<sup>51</sup> See 19 CFR 351.301(b)(2).

extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>52</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>53</sup> Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letter of appearance).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 20, 2021.

**Ryan Majerus,**

*Deputy Assistant Secretary for Policy and Negotiations.*

### Appendix—Scope of the Investigations

The merchandise covered by these investigations is all mixtures of urea and ammonium nitrate in aqueous or ammonia solution, regardless of nitrogen concentration by weight, and regardless of the presence of additives, such as corrosion inhibitors and soluble micro or macronutrients (UAN).

Subject merchandise includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, adding or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the subject country.

The scope also includes UAN that is commingled with UAN from sources not subject to these investigations. Only the subject component of such commingled

products is covered by the scope of these investigations.

The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 3102.80.0000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope is dispositive.

[FR Doc. 2021–15889 Filed 7–23–21; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Advisory Committee on Supply Chain Competitiveness: Notice of Public Meeting

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice sets forth the schedule and proposed topics of discussion for a public meeting of the Advisory Committee on Supply Chain Competitiveness (Committee).

**DATES:** This Webex meeting will be held on Wednesday, August 11, 2021, from 11:00 a.m. to 12:00 p.m. Eastern Daylight Time. The deadline for members of the public to register to participate in or listen to the meeting is 5:00 p.m., Wednesday, August 4, 2021.

**ADDRESSES:** The meeting will be held by Webex. The Webex link, and call-in number, and passcode will be provided by email to registrants. Requests to register and any written comments should be submitted to: Richard Boll, Office of Supply Chain, Professional & Business Services, International Trade Administration by email: [richard.boll@trade.gov](mailto:richard.boll@trade.gov). Members of the public are encouraged to submit registration requests via email to ensure timely receipt.

#### FOR FURTHER INFORMATION CONTACT:

Richard Boll, Office of Supply Chain, Professional & Business Services, International Trade Administration by email [richard.boll@trade.gov](mailto:richard.boll@trade.gov) or phone 202–384–8539.

**SUPPLEMENTARY INFORMATION:** The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth and national economic competitiveness, encourage

innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and provides advice to the Secretary on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: <https://www.trade.gov/acsc>.

**Matters to be Considered:** Committee members are expected to deliberate and vote on Committee-drafted letters outlining priority recommendations to the Secretary of Commerce that have been raised at the previous Committee meetings, including recommendations on supply chain resilience and congestion, workforce development in the trucking industry, data requirements for internal U.S. shipments, and digitalization of supply chains. These letters will highlight the important issues that the Committee recommends that the Secretary of Commerce consider to improve the competitiveness of U.S. supply chains, facilitate new job growth within the United States, and increase U.S. exports. The Committee's subcommittees will report on the status of their work regarding these topics. The agenda may change to accommodate other Committee business.

The Office of Supply Chain, Professional & Business Services will post the final agenda on the Committee website <https://www.trade.gov/acsc> at least one week prior to the meeting. The WebEx and conference line will be open to the public for comments on a first-come, first-served basis. Access lines are limited. The minutes of the meetings and any recommendations adopted by the Committee will be posted on the Committee website within 60 days of the meeting.

Dated: July 19, 2021.

**Heather Sykes,**

*Director, Office of Supply Chain, Professional, and Business Services.*

[FR Doc. 2021–15750 Filed 7–23–21; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Open Meeting of the Information Security and Privacy Advisory Board

**AGENCY:** National Institute of Standards and Technology.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Information Security and Privacy Advisory Board (ISPAB) will

<sup>52</sup> See section 782(b) of the Act.

<sup>53</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

meet Tuesday, September 28, 2021 from 1:00 p.m. until 4:30 p.m., Eastern Time. All sessions will be open to the public.

**DATES:** The meeting will be held on Tuesday, September 28, 2021 from 1:00 p.m. until 4:30 p.m., Eastern Time.

**ADDRESSES:** The meeting will be a virtual meeting via webinar. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Jeff Brewer, Information Technology Laboratory, National Institute of Standards and Technology, Telephone: (301) 975-2489, Email address: [jeffrey.brewer@nist.gov](mailto:jeffrey.brewer@nist.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. app., notice is hereby given that the ISPAB will hold an open meeting Tuesday, September 28, 2021 from 1:00 p.m. until 4:30 p.m., Eastern Time. All sessions will be open to the public. The ISPAB is authorized by 15 U.S.C. 278g-4, as amended, and advises the National Institute of Standards and Technology (NIST), the Secretary of Homeland Security, and the Director of the Office of Management and Budget (OMB) on information security and privacy issues pertaining to Federal government information systems, including through review of proposed standards and guidelines developed by NIST. Details regarding the ISPAB's activities are available at <https://csrc.nist.gov/projects/ispab>.

The agenda is expected to include the following items:

- Board Discussion on Executive Order 14028, Improving the Nation's Cybersecurity (May 12, 2021) deliverables and impacts to date,
- Presentation by NIST, the Department of Homeland Security, and the General Services Administration on upcoming work specified in Executive Order 14028,
- Presentation by the Office of Management and Budget on Executive Order 14028 directions and memoranda to U.S. Federal Agencies,
- Board Discussion on recommendations and issues related to Executive Order 14028.

Note that agenda items may change without notice. The final agenda will be posted on the ISPAB event page at: <https://csrc.nist.gov/Events/2021/ispab-september-2021-meeting>.

**Public Participation:** Written questions or comments from the public are invited and may be submitted electronically by email to Jeff Brewer at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT**

section of this notice by 5 p.m. on Monday, September 27, 2021.

The ISPAB agenda will include a period, not to exceed fifteen minutes, for submitted questions or comments from the public between 3:45 p.m. and 4:00 p.m. Submitted questions or comments from the public will be selected on a first-come, first-served basis and limited to five minutes per person.

Members of the public who wish to expand upon their submitted statements, those who had wished to submit a question or comment but could not be accommodated on the agenda, and those who were unable to attend the meeting via webinar are invited to submit written statements. In addition, written statements are invited and may be submitted to the ISPAB at any time. All written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory by email to: [jeffrey.brewer@nist.gov](mailto:jeffrey.brewer@nist.gov).

**Admittance Instructions:** All participants will be attending via webinar and must register on ISPAB's event page at: <https://csrc.nist.gov/Events/2021/ispab-september-2021-meeting> by 5 p.m. Eastern Time, Monday, September 27, 2021.

**Alicia Chambers,**

*NIST Executive Secretariat.*

[FR Doc. 2021-15888 Filed 7-23-21; 8:45 am]

**BILLING CODE 3510-13-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Pacific Islands Region Seabird-Fisheries Interaction Recovery Reporting

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on April 21, 2021 (86 FR 20663) during a 60-day comment period. This notice allows for

an additional 30 days for public comments.

**Agency:** NOAA National Marine Fisheries Service (NMFS), Commerce.

**Title:** Pacific Islands Short-tailed Albatross-Fisheries Interaction Recovery Reporting.

**OMB Control Number:** 0648-0456.

**Form Number(s):** None.

**Type of Request:** Regular submission, revision and extension of a current information collection.

**Number of Respondents:** 1.

**Average Hours per Response:** 1.25.

**Total Annual Burden Hours:** 1.25.

**Needs and Uses:** Federal regulations at 50 CFR 665.815(b) require Hawaii-based longline fishermen to safely handle and release short-tailed albatrosses (*Phoebastria albatrus*) (STAL) caught incidentally during fishing operations. The vessel operator must: (a) Contact NMFS, the U.S. Coast Guard (USCG), or the U.S. Fish and Wildlife Service immediately; (b) complete and submit a Short-tailed Albatross Recovery Data Form; and (c) attach identical information tags to the carcass and specimen bag if the STAL is dead and turn over the carcass to USFWS within 72 hours after returning to port. When a STAL is brought on board a vessel, the vessel operator must record the incident's date, time, location, any tag data, and injury and health descriptions on the Short-tailed Albatross Recovery Data Form.

Two minor revisions were made to the Recovery Data Form based on comments for the U.S. Fish & Wildlife Service: On page 1 of the form, the statement "If a photo is taken, attach to form when submitted." was added to the Photograph field; on the bottom of page 2 instruction was added to submit the form and photo (if taken) to U.S. Fish & Wildlife by email.

**Affected Public:** Individuals or households; Business or other for-profit organizations.

**Frequency:** As needed.

**Respondent's Obligation:** Mandatory.

**Legal Authority:** 50 CFR 665.815(b).

This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search

function and entering either the title of the collection or the OMB Control Number 0648–0456.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021–15781 Filed 7–23–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Patent Reexaminations, Supplemental Examinations, and Post Patent Submissions

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651–0064 (Patent Reexaminations, Supplemental Examinations, and Post Patent Submissions). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

**DATES:** To ensure consideration, comments regarding this information collection must be received on or before September 24, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include “0651–0064 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Parikha Mehta, Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–3248; or by email to [Parikha.Mehta@uspto.gov](mailto:Parikha.Mehta@uspto.gov) with “0651–0064 comment” in the subject

line. Additional information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The USPTO is required by 35 U.S.C. 131 and 151 to examine applications and, when appropriate, allow applications and issue them as patents. Chapter 30 of Title 35 U.S.C. provides that any person at any time may file a request for reexamination by the USPTO of any claim of a patent on the basis of prior art cited under the provisions of 35 U.S.C. 301. Once initiated, the reexamination proceedings under Chapter 30 are substantially *ex parte* and do not permit input from third parties. The regulations outlining *ex parte* reexaminations are found at 37 CFR 1.510–1.570.

In addition, 35 U.S.C. 257 permits a patent owner to request supplemental examination of a patent by the USPTO to consider, reconsider, or correct information believed to be relevant to the patent. The regulations outlining supplemental examination are found at 37 CFR 1.601–1.625.

The Leahy-Smith America Invents Act terminated *inter partes* reexamination effective September 16, 2012. However, *inter partes* reexamination proceedings based on *inter partes* reexamination requests filed before September 16, 2012, continue to be prosecuted. Therefore, this information collection continues to include items related to the prosecution of *inter partes* reexamination proceedings. The regulations outlining *inter partes* reexamination are found at 37 CFR 1.903–1.959.

The provisions of 35 U.S.C. 301 and 37 CFR 1.501 govern the ability of a person to submit into the file of an issued patent (1) prior art consisting of patents or printed publications which the person making the submission believes to have a bearing on the patentability of any claim of the issued patent and (2) statements of the owner of the issued patent filed in a proceeding before a Federal court or the USPTO in which the owner of the issued patent took a position on the scope of any claim of the issued patent.

This information collection covers information contained in: (1) Requests for *ex parte* reexamination, (2) requests for supplemental examination, (3) submissions made by patent owners and third-party requesters related to the prosecution of an *ex parte* or *inter partes* reexamination proceeding, (4) information submitted by the public to aid in ascertaining the patentability

and/or scope of the claims of the issued patent, and (5) information submitted by patent owners regarding a position taken before the USPTO or a Federal court regarding the scope of any claim in their issued patent. The USPTO’s use of the statements of the patent owners ((5) above) will be limited to determining the meaning of a patent claim in *ex parte* reexamination proceedings that already have been ordered and in *inter partes* review and post grant review proceedings that already have been instituted.

The purpose of this information collection is to facilitate requests for *ex parte* reexamination and supplemental examination, to facilitate prosecution of reexamination and reissue proceedings, and to ensure that the associated documentation is submitted to the USPTO, and to permit relevant post-patent prior art and claim scope information to be entered into a patent file.

This renewal request incorporates an item that was previously approved under OMB control number 0651–0067 (Post Patent Public Submissions), specifically ‘information disclosure citations’. The title of this information collection is being updated to reflect that change with the inclusion of “Post Patent Submissions”. As the information disclosure citation was the only item contained in 0651–0067, that information collection will be discontinued.

##### II. Method of Collection

The items in this information collection may be submitted online using the Patent Electronic Systems (EFS-Web or Patent Center), or on paper by either mail or hand delivery.

##### III. Data

*OMB Control Number:* 0651–0064.

*Form Numbers:* (SB = Specimen Book).

- PTO/SB/42 (Information Disclosure Citation in a Patent).
- PTO/SB/57 (Request for Ex Parte Reexamination Transmittal Form).
- PTO/SB/59 (Request for Supplemental Examination Transmittal Form).

*Type of Review:* Extension and revision of a currently approved information collection.

*Affected Public:* Private sector; individuals or households.

*Estimated Number of Respondents:* 864 respondents per year.

*Estimated Number of Responses:* 880 responses per year.

*Estimated Time per Response:* The USPTO estimates that it takes the public approximately between 30 minutes (0.5

hours) to 55 hours, depending on the complexity of the situation and item, to gather the necessary information, prepare the appropriate document(s),

and submit the information to the USPTO.

*Estimated Total Annual Respondent Burden Hours: 23,574 hours.*

*Estimated Total Annual Respondent (Hourly) Cost Burden: \$9,429,600.*

TABLE 1—TOTAL HOURLY BURDEN FOR PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents	Estimated annual responses (year)	Estimated time for response (hour)	Estimated annual burden (hour/year)	Rate <sup>1</sup> (\$/hour)	Estimated annual respondent cost burden
			(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)
1 .....	Request for Supplemental Examination—PTO/SB/59.	31	31	25	775	400	\$310,000
2 .....	Request for <i>Ex Parte</i> Reexamination—PTO/SB/57.	177	177	55	9,735	400	3,894,000
3 .....	Petition in a Reexamination Proceeding (except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d)).	68	68	23	1,564	400	625,600
4 .....	Patent Owner's 37 CFR 1.530 Statement	53	53	8	424	400	169,600
5 .....	Third Party Requester's 37 CFR 1.535 Reply.	9	9	8	72	400	28,800
6 .....	Amendment in <i>Ex Parte</i> or <i>Inter Partes</i> Reexamination.	230	230	33	7,590	400	3,036,000
7 .....	Third Party Requester's 37 CFR 1.947 Comments in <i>Inter Partes</i> Reexamination.	1	1	41	41	400	16,400
8 .....	Response to Final Rejection in <i>Ex Parte</i> Reexamination.	118	118	17	2,006	400	802,400
9 .....	Patent Owner's 37 CFR 1.951 Response in <i>Inter Partes</i> Reexamination.	2	2	41	82	400	32,800
10 .....	Third Party Requester's 37 CFR 1.951 Comments in <i>Inter Partes</i> Reexamination.	2	2	41	82	400	32,800
11 .....	Petition to Request Extension of Time in <i>Ex Parte</i> or <i>Inter Partes</i> Reexamination.	116	116	0.5	58	400	23,200
12 .....	Information Disclosure Citation in a Patent—PTO/SB/42.	32	48	10	480	400	192,000
Total .....		839	855		22,909		9,163,600

<sup>1</sup> 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour. The hourly rate for paraprofessional/paralegals is estimated at \$145 from data published in the 2018 Utilization and Compensation Survey by the National Association of Legal Assistants (NALA).

TABLE 2—TOTAL HOURLY BURDEN FOR INDIVIDUALS OR HOUSEHOLDS RESPONDENTS

Item No.	Item	Estimated annual respondents	Estimated annual responses (year)	Estimated time for response (hour)	Estimated annual burden (hour/year)	Rate <sup>2</sup> (\$/hour)	Estimated annual respondent cost burden
			(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)
1 .....	Request for Supplemental Examination—PTO/SB/59.	1	1	25	25	400	\$10,000
2 .....	Request for <i>Ex Parte</i> Reexamination—PTO/SB/57.	5	5	55	275	400	110,000
3 .....	Petition in a Reexamination Proceeding (except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d)).	2	2	23	46	400	18,400
4 .....	Patent Owner's 37 CFR 1.530 Statement	1	1	8	8	400	3,200
6 .....	Amendment in <i>Ex Parte</i> or <i>Inter Partes</i> Reexamination.	7	7	33	231	400	92,400
8 .....	Response to Final Rejection in <i>Ex Parte</i> Reexamination.	4	4	17	68	400	27,200
11 .....	Petition to Request Extension of Time in <i>Ex Parte</i> or <i>Inter Partes</i> Reexamination.	4	4	0.5	2	400	800
12 .....	Information Disclosure Citation in a Patent—PTO/SB/42.	1	1	10	10	400	4,000
Total .....		25	25		665		266,000

<sup>2</sup> 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour. The hourly rate for paraprofessional/paralegals is estimated at \$145 from data published in the 2018 Utilization and Compensation Survey by the National Association of Legal Assistants (NALA).

*Estimated Total Annual Respondent (Non-hourly) Cost Burden: \$2,439,335.*  
There are no capital start-up,

recordkeeping, or maintenance costs associated with this information collection. However, this information

collection does have annual (non-hour) costs in the form of postage costs and filing fees. Therefore, the USPTO

estimates that the total annual (non-hour) cost burden for this information collection, in the form of filing fees (\$2,439,195) and postage costs (\$140) is approximately \$2,439,335.

#### Filing Fees

There are nine filing fees associated with this information collection, which are broken down by undiscounted

entity, small entity, and micro entity. These fees are listed in the table below.

TABLE 3—FILING FEES (NON-HOUR) COST BURDEN

Item No.	Item	Estimated annual responses	Filing fee (\$)	Total non-hour cost burden (yr)
		(a)	(b)	(a) × (b) = (c)
1 .....	Supplemental Examination Request (undiscounted entity) .....	22	4,620	\$101,640
1 .....	Supplemental Examination Request (small entity) .....	14	2,310	32,340
1 .....	Supplemental Examination Request (micro entity) .....	1	1,155	1,155
1 .....	Supplemental Examination Reexamination (undiscounted entity) .....	28	12,700	355,600
1 .....	Supplemental Examination Reexamination (small entity) .....	15	6,350	95,250
1 .....	Supplemental Examination Reexamination (micro entity) .....	1	3,175	3,175
1 .....	Supplemental Examination document size fees, 21–50 documents (undiscounted entity).	3	180	540
1 .....	Supplemental Examination document size fees, 21–50 documents (small entity).	3	90	270
1 .....	Supplemental Examination document size fees, 21–50 documents (micro entity).	1	45	45
1 .....	Supplemental examination document size fees, each additional 50 documents (undiscounted entity).	3	300	900
1 .....	Supplemental examination document size fees, each additional 50 documents (small entity).	1	150	150
1 .....	Supplemental examination document size fees, each additional 50 documents (micro entity).	1	75	75
2 .....	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination (undiscounted entity).	23	480	11,040
2 .....	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination (small entity).	12	240	2,880
2 .....	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination (micro entity).	1	120	120
2 .....	Reexamination claims in excess of 20 and also in excess of the number of claims in the patent under reexamination (undiscounted entity).	38	100	3,800
2 .....	Reexamination claims in excess of 20 and also in excess of the number of claims in the patent under reexamination (small entity).	17	50	850
2 .....	Reexamination claims in excess of 20 and also in excess of the number of claims in the patent under reexamination (micro entity).	1	25	25
2 .....	<i>Ex Parte</i> Reexamination (§ 1.510(a)) Streamlined (undiscounted entity) .....	22	6,300	138,600
2 .....	<i>Ex Parte</i> Reexamination (§ 1.510(a)) Streamlined (small entity) .....	40	3,150	126,000
2 .....	<i>Ex Parte</i> Reexamination (§ 1.510(a)) Streamlined (micro entity) .....	2	1,575	3,150
2 .....	<i>Ex Parte</i> Reexamination (§ 1.510(a)) Non-Streamlined (undiscounted entity).	86	12,600	1,083,600
2 .....	<i>Ex Parte</i> Reexamination (§ 1.510(a)) Non-Streamlined (small entity) .....	56	6,300	352,800
2 .....	<i>Ex Parte</i> Reexamination (§ 1.510(a)) Non-Streamlined (micro entity) .....	14	3,150	44,100
3 .....	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (undiscounted entity).	34	2,040	69,360
3 .....	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (small entity).	11	1,020	11,220
3 .....	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d) (micro entity).	1	510	510
Total .....	.....	.....	.....	2,439,195

#### Postage Costs

The USPTO expects that at most 2% of the responses in this information collection will be submitted by mail. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail 2-day flat rate legal envelope, will be \$8.25. The USPTO estimates approximately 17 submissions

per year may be mailed to the USPTO, for a total postage cost of \$140 per year.

*Respondent's Obligation:* Required to obtain or retain benefits.

#### IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility;

(b) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. The USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personal identifying information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, the USPTO cannot guarantee that it will be able to do so.

**Kimberly Hardy,**

*Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.*

[FR Doc. 2021-15875 Filed 7-23-21; 8:45 am]

**BILLING CODE 3510-16-P**

## CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2021-0020]

### Agency Information Collection Activities; Proposed Collection; Comment Request; Hazard Warning Communication Survey

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** The Consumer Product Safety Commission (CPSC) is announcing an opportunity for public comment on a new proposed collection of information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** for each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on a proposed survey to assess how hazard warnings are communicated to consumers. The Commission will consider all comments received in response to this notice before submitting this collection of information to the Office of

Management and Budget (OMB) for approval.

**DATES:** Submit written or electronic comments on the collection of information by September 24, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CPSC-2021-0020, by any of the following methods:

*Electronic Submissions:* Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC does not accept comments submitted by electronic mail (email), except through <https://www.regulations.gov> and as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

*Mail/hand delivery/courier Written Submissions:* Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504-7479.

Alternatively, as a temporary option during the COVID-19 pandemic, you may email such submissions to: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

*Instructions:* All submissions must include the agency name and docket number for this notice. CPSC may post all comments received without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit electronically: Confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier written submissions.

*Docket:* For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, insert Docket No. CPSC-2021-0020 into the “Search” box, and follow the prompts. A copy of the proposed survey is available at: <http://www.regulations.gov> under Docket No. CPSC-2021-0020, Supporting and Related Material.

#### FOR FURTHER INFORMATION CONTACT:

Cynthia Gillham, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; (301) 504-7991, or by email to: [cgillham@cpsc.gov](mailto:cgillham@cpsc.gov).

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from OMB for each collection of information

they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency proposed surveys. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. Accordingly, CPSC is publishing notice of the proposed collection of information set forth in this document.

### A. Hazard Warning Communication Survey

CPSC is authorized under section 5(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2054(a), to conduct studies and investigations relating to the causes and prevention of deaths, accidents, injuries, illnesses, other health impairments, and economic losses associated with consumer products. Section 5(b) of the CPSA, 15 U.S.C. 2054(b), further provides that CPSC may conduct research, studies, and investigations on the safety of consumer products, and develop product safety test methods and testing devices.

CPSC proposes to conduct an online survey to gather data on consumer risk perception and response to hazard communications from 5,000 respondents. The study population will be comprised of individuals age 18 and over from across the United States. In this proposed survey, CPSC seeks information about consumer product use, including, but not limited to, the following topics:

- Consumers’ beliefs, experiences, and tendencies regarding product safety;
- whether consumers pay attention to instructions that come with products;
- whether consumers read safety information and labels;
- to what extent consumers comply with safety messages;
- how product type influences consumers’ attitude and behavior;
- what information resources consumers rely on before buying a product;
- how product safety ranks among other factors consumers consider;
- reasons consumers comply or do not comply with the safety messages; and
- how consumers respond if they encounter a safety recall of the product they own.

CPSC has contracted with Carahsoft/Qualtrics, to develop and execute this project for CPSC. Information obtained through this survey is not intended to be considered nationally representative.

The panel provider will monitor respondents, and if a particular demographic is trending highly, the panel provider will slow down the sample for that segment and will focus on obtaining responses from others to ensure recruitment for U.S. census-matched survey participants from the Midwest, Northeast, South, and West regions. The panel provider will also monitor respondents to ensure that underserved populations are represented in the sample and that insights are collected from a diverse population.

CPSC intends to use the study findings to develop a better understanding of the mechanisms and types of safety messages that consumers receive, how they respond, and what affects their response. Specifically, responses to the items in this survey will provide CPSC staff with information on whether consumers read and comply with various types of safety information that comes with products they use; the causes of consumer noncompliance with product safety information; whether consumers share product safety information with other users of their products; what sources of information they rely on to decide if a product is safe to use; whether safety is a priority in their purchasing decisions; how they responded to safety notices and recalls in the past; reasons for noncompliance with safety notices and recalls; and if and how the product type affects their risk perception and behaviors. Findings from this survey will provide CPSC with information on ways to increase consumer understanding of, and adherence to, safety messaging and help CPSC develop more effective messaging that will convey critical information about product hazards.

## B. Burden Hours

We estimate the number of respondents to the survey to be 5,000. The online survey for the proposed study will take approximately 15 minutes (0.25 hours) to complete. We estimate the total annual burden hours for respondents to be 1,250 hours. The monetized hourly cost is \$38.60, as defined by total compensation for all civilian workers, U.S. Bureau of Labor Statistics, Employer Costs for Employee Compensation, as of December 2020. Accordingly, we estimate the total cost burden to be \$48,250 (1,250 hours × \$38.60). The total cost to the federal government for the contract to design and conduct the proposed survey is \$150,978.

## C. Request for Comments

CPSC invites comments on these topics:

- Whether the proposed collection of information is necessary for the proper performance of CPSC's functions, including whether the information will have practical utility;
- The accuracy of CPSC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Alberta E. Mills,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 2021-15841 Filed 7-23-21; 8:45 am]

**BILLING CODE 6355-01-P**

## CONSUMER PRODUCT SAFETY COMMISSION

### Public Availability of Consumer Product Safety Commission FY 2019 Service Contract Inventory, FY 2018 Service Contract Inventory Analysis, and Plan for FY 2019 Inventory Analysis

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** The Consumer Product Safety Commission (CPSC), in accordance with section 743(c) of Division C of the Consolidated Appropriations Act, 2010, is announcing the availability of CPSC's service contract inventory for fiscal year (FY) 2019, CPSC's FY 2018 service contract inventory analysis, and the plan for analyzing CPSC's FY 2019 service contract inventory. The FY 2019 inventory provides information on service contract actions that exceeded \$25,000 that CPSC made in FY 2019.

**FOR FURTHER INFORMATION CONTACT:** Eddie Ahmad, Procurement Analyst, Division of Procurement Services, Division of Procurement Services, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814. Telephone: 301-504-7884; email: [aahmad@cpsc.gov](mailto:aahmad@cpsc.gov).

**SUPPLEMENTARY INFORMATION:** On December 16, 2009, the Consolidated Appropriations Act, 2010 (Consolidated Appropriations Act), Public Law 111-117, became law. Section 743(a) of the

Consolidated Appropriations Act, titled, "Service Contract Inventory Requirement," requires agencies to submit to the Office of Management and Budget (OMB), an annual inventory of service contracts awarded or extended through the exercise of an option on or after April 1, 2010, and describes the contents of the inventory. The contents of the inventory must include:

(A) A description of the services purchased by the executive agency and the role the services played in achieving agency objectives, regardless of whether such a purchase was made through a contract or task order;

(B) The organizational component of the executive agency administering the contract, and the organizational component of the agency whose requirements are being met through contractor performance of the service;

(C) The total dollar amount obligated for services under the contract and the funding source for the contract;

(D) The total dollar amount invoiced for services under the contract;

(E) The contract type and date of award;

(F) The name of the contractor and place of performance;

(G) The number and work location of contractor and subcontractor employees, expressed as full-time equivalents for direct labor, compensated under the contract;

(H) Whether the contract is a personal services contract; and

(I) Whether the contract was awarded on a noncompetitive basis, regardless of date of award.

Section 743(a)(3)(A) through (I) of the Consolidated Appropriations Act. Section 743(c) of the Consolidated Appropriations Act requires agencies to "publish in the **Federal Register** a notice that the inventory is available to the public."

Consequently, through this notice, we are announcing that the CPSC's service contract inventory for FY 2019 is available to the public. The inventory provides information on service contract actions of more than \$25,000 that the CPSC made in FY 2019. The information is organized by function to show how contracted resources are distributed throughout the CPSC. OMB posted a consolidated government-wide Service Contract Inventory for FY 2019 at <https://www.acquisition.gov/service-contract-inventory>. You can access the CPSC's inventories by limiting the "Contracting Agency Name" field on each spreadsheet to "Consumer Product Safety Commission."

Additionally, CPSC's Division of Procurement Services has posted

CPSC's FY 2018 service contract inventory analysis and the plan for analyzing the FY 2019 inventory on CPSC's homepage at the following link: <https://www.cpsc.gov/Agency-Reports/Service-Contract-Inventory>. The FY 2018 inventory analysis was developed in accordance with guidance issued on October 17, 2016 by the Office of Management and Budget (OMB), Office of Procurement Policy (OFPP).

**Alberta E. Mills,**  
Secretary, Consumer Product Safety  
Commission.

[FR Doc. 2021-15813 Filed 7-23-21; 8:45 am]

**BILLING CODE 6355-01-P**

## DEPARTMENT OF DEFENSE

### Department of the Air Force

[Docket ID: USAF-2021-HQ-0004]

#### Proposed Collection; Comment Request

**AGENCY:** Department of the Air Force, Department of Defense (DoD).

**ACTION:** Information collection notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995*, the Department of the Air Force announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by September 24, 2021.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Mail:* DoD cannot receive written comments at this time due to the COVID-19 pandemic. Comments should be sent electronically to the docket listed above.

*Instructions:* All submissions received must include the agency name, docket

number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Ms. Angela Duncan at the Department of Defense, Washington Headquarters Services, ATTN: Executive Services Directorate, Directives Division, 4800 Mark Center Drive, Suite 03F09-09, Alexandria, VA 22350-3100 or call 571-372-7574.

#### SUPPLEMENTARY INFORMATION:

*Title; Associated Form; and OMB Number:* Department of Defense National Defense Science and Engineering Graduate (NDSEG) Fellowships Program; OMB Control Number 0701-0154.

*Needs and Uses:* The National Defense Science and Engineering (S&E) Graduate (NDSEG) Fellowships program provides 3-year fellowships to students enrolled in Ph.D. programs of interest to DoD. Awards are under the authority of 10 U.S.C. 2191. The request for applications is necessary to screen applicants and to evaluate and select students to award fellowships. Information is used by the American Society for Engineering Education (ASEE), the contractor selected to administer the program, to down-select the eligible applicants by means of a peer review panel. The information is also used by scientists of the Air Force, Army, and Navy, to make the final selection of awardees.

*Affected Public:* Individuals or households.

*Annual Burden Hours:* 42,924 hours.

*Number of Respondents:* 3,577.

*Responses per Respondent:* 1.

*Annual Responses:* 3,577.

*Average Burden per Response:* 12 hours.

*Frequency:* Annually.

Dated: July 20, 2021.

**Aaron T. Siegel,**

Alternate OSD Federal Register, Liaison  
Officer, Department of Defense.

[FR Doc. 2021-15765 Filed 7-23-21; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Docket ID: DoD-2021-OS-0075]

#### Proposed Collection; Comment Request

**AGENCY:** Washington Headquarters Services, Department of Defense (DoD).

**ACTION:** Information collection notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995*, the Office of the Director of Administration and Management announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by September 24, 2021.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Mail:* DoD cannot receive written comments at this time due to the COVID-19 pandemic. Comments should be sent electronically to the docket listed above.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of Information Management, ATTN: Ms. Angela Duncan; Executive Services Directorate, Directives Division, 4800 Mark Center

Drive, Suite 03F09–09, Alexandria, VA 22350–3100 or call 571–372–7574.

#### SUPPLEMENTARY INFORMATION:

*Title; Associated Form; and OMB Number:* Generic Clearance for DoD Census and Pulse Surveys; OMB Control Number 0704–DPCS.

*Needs and Uses:* The proposed information collection activity provides the agency a means to conduct censuses (including pulse and climate surveys) of DoD components and programs. The data collected will be used by the DoD to identify and address internal issues. Collection activities cleared under this generic vehicle will be non-controversial and low burden for respondents. The data collected will not be made public.

*Affected Public:* Individuals or households, Federal government.

*Annual Burden Hours:* 50,000.

*Number of Respondents:* 300,000.

*Responses per Respondent:* 1.

*Annual Responses:* 300,000.

*Average Burden per Response:* 10 minutes.

*Frequency:* On occasion.

Dated: July 20, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2021–15771 Filed 7–23–21; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF EDUCATION

[Docket No. ED–2021–SCC–0032]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Title I, Part A Accountability Waiver Requests for School Year 2020–2021

**AGENCY:** Office of Elementary and Secondary Education (OESE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

**DATES:** Interested persons are invited to submit comments on or before August 25, 2021.

**ADDRESSES:** Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this information collection request by selecting “Department of Education” under “Currently Under Review,” then check

“Only Show ICR for Public Comment” checkbox. Comments may also be sent to [ICDocketmgr@ed.gov](mailto:ICDocketmgr@ed.gov).

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Melissa Siry, (202) 260–0926.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public’s reporting burden. It also helps the public understand the Department’s information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Title I, Part A Accountability Waiver Requests for School Year 2020–2021.

*OMB Control Number:* 1810–0752.

*Type of Review:* Extension without change of a currently approved collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 53.

*Total Estimated Number of Annual Burden Hours:* 159.

*Abstract:* This is a request for extension of this collection. On February 22, 2021 the U.S. Department of Education (the Department) invited waivers for the 2020–2021 school year of accountability, school identification, and related reporting requirements under Title I of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA), pursuant to the Department’s authority under section 8401 of the ESEA.

Dated: July 20, 2021.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–15789 Filed 7–23–21; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Applications for New Awards; Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are DeafBlind Program

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Department of Education (Department) is issuing a notice inviting applications for Federal fiscal year (FFY) 2021 for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are DeafBlind program—Assistance Listing Number 84.160D—to provide training to working interpreters in order to develop a new skill area or enhance an existing skill area. This notice relates to the approved information collection under OMB control number 1820–0018.

#### DATES:

*Applications Available:* July 26, 2021.

*Deadline for Transmittal of Applications:* August 30, 2021.

*Date of Pre-Application Meeting:* On the date of publication in the **Federal Register**, the Office of Special Education and Rehabilitative Services (OSERS) will post a PowerPoint presentation that provides general information about the Rehabilitation Services Administration’s (RSA) discretionary grants and a PowerPoint presentation specifically about Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are DeafBlind at <https://ncrtm.ed.gov/RSAGrantInfo.aspx>. OSERS will conduct a pre-application meeting via conference call on July 30, 2021. Details about the pre-application meeting will be available at <https://ncrtm.ed.gov/RSAGrantInfo.aspx>. OSERS invites you to send questions to [160D@ed.gov](mailto:160D@ed.gov) in advance of the pre-application meeting. The 84.160D pre-application meeting summary of questions and answers will be available at <https://ncrtm.ed.gov/RSAGrantInfo.aspx> within six days after the pre-application meeting.

**ADDRESSES:** For the addresses for obtaining and submitting an

application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at [www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf](http://www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf).

**FOR FURTHER INFORMATION CONTACT:**

Kristen Rhinehart-Fernandez, U.S. Department of Education, 400 Maryland Avenue SW, Room 5094, Potomac Center Plaza, Washington, DC 20202–2800. Telephone (202) 245–6103. Email: [160D@ed.gov](mailto:160D@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* The Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are DeafBlind program is designed to establish interpreter training programs or to provide financial assistance for ongoing interpreter programs to train a sufficient number of qualified interpreters throughout the country in order to meet the communication needs of individuals who are deaf or hard of hearing and individuals who are DeafBlind by—

(a) Training interpreters to effectively interpret and transliterate between spoken language and sign language and to transliterate between spoken language and oral or tactile modes of communication;

(b) Ensuring the maintenance of the interpreting skills of qualified interpreters; and

(c) Providing opportunities for interpreters to raise their skill level competence in order to meet the highest standards approved by certifying associations.

*Priority:* This notice contains one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), the absolute priority is from the notice of final priority and requirements (NFP) for this program published elsewhere in this issue of the **Federal Register**.

*Absolute Priority:* For FFY 2021, and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

*Interpreter Training in Specialty Areas.*

The purpose of this priority is to fund projects that provide training to working interpreters in one of five specialty areas to effectively meet the communication needs of individuals who are deaf or hard of hearing and individuals who are DeafBlind receiving vocational rehabilitation (VR) services and/or services from other programs, such as independent living services, under the Rehabilitation Act of 1973 (Rehabilitation Act). For the purposes of this priority, working interpreters must possess a baccalaureate degree and a minimum of three years of relevant experience as an interpreter. On a case-by-case basis and in consultation with RSA, educational equivalence may be used in place of the baccalaureate degree.

The specialty areas are—

(1) Increasing skills of novice interpreters;

(2) Trilingual interpreting (including Spanish) (*i.e.*, language fluency in first, second, and third languages with one of the three languages being ASL);

(3) Advanced skills for working interpreters;

(4) Cultural competency training, outreach, and recruitment of interpreters from multicultural backgrounds; and

(5) National projects in a field-initiated area, in topic areas such as—

(a) Interpreting in healthcare, including interpreting for hard-to-serve populations;

(b) Interpreting for individuals who are DeafBlind;

(c) Atypical language interpreting; and

(d) Other topics in new areas for which applicants demonstrate that the existing training is not adequately meeting the needs of interpreters working in the field of VR.

*Application Requirements:*

The following application requirements apply to all specialty areas under this priority. The Department encourages innovative approaches to meet these requirements. Applicants must—

(a) Demonstrate, in the narrative section of the application under “Significance of the Project,” how the proposed project will address the need for sign language interpreters in a specialty area. To address this requirement, applicants must—

(1) Present applicable data demonstrating the need for interpreters in the specialty area for which training will be developed by the project and delivered in at least three distinct, noncontiguous geographic areas, which may include the U.S. Territories;

(2) Present baseline data for the number or estimated number of working interpreters currently trained in the specialty area. In the event that an applicant proposes training in a new specialty area that does not currently exist or for which there are no baseline data, the applicant should provide an adequate explanation of the lack of reliable data and may report zero as a baseline; and

(3) Describe the competencies that working interpreters must demonstrate in order to provide high-quality services in the identified specialty area and explain how those competencies are based on practices that demonstrate a rationale or are supported by promising evidence (as defined in 34 CFR 77.1).

(b) Demonstrate, in the narrative section of the application under “Quality of Project Design,” how the proposed project will—

(1) Develop a new training program or stand-alone modules and conduct a pilot by the end of the first year of the project. Applicants must provide justification in their application if they believe additional time may be necessary to fully develop and pilot the curricula before the end of the first year. The training program or stand-alone modules must contain remote learning<sup>1</sup> experiences that advance engagement and learning (*e.g.*, synchronous and asynchronous professional learning, professional learning networks or communities, and coaching), which could also be incorporated into existing associate, baccalaureate, or graduate degree ASL-English (or ASL-other spoken language) programs, as appropriate. The remote learning environment must be accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, as applicable. Applicants may choose to award continuing education credits (CEUs) or college or master’s level credits to participants in the training program. Applicants should note that while pre-service training is not the focus of this program, a variety of resources may be considered (such as available pre-service training material) that may inform, support, or strengthen the development of training for ASL-English interpreter training in specialized areas. Training materials may include information to ensure

<sup>1</sup> Remote learning means programming where at least part of the learning occurs away from the physical building in a manner that addresses a learner’s educational needs. Remote learning may include online, hybrid/blended learning, or non-technology-based learning (*e.g.*, lab kits, project supplies, paper packets).

participants have a foundational understanding of the VR program. Finally, applicants must consider cultural competency as it relates to their respective specialty area. Applicants must describe how training and accompanying materials developed for interpreting practice and application, especially video content, will include diverse and inclusive models and perspectives;

(2) Deliver the training or stand-alone modules remotely to at least three distinct, noncontiguous geographic areas identified in paragraph (a)(1) of these application requirements in years two, three, four, and five of the project. Applicants may deliver in-person training, as appropriate, to support participants' application of knowledge, skills, and competencies gained through online training. Applicants may decide when to safely offer in-person training and must be prepared to pivot between in-person and remote learning during the project, as needed, throughout the duration of the COVID-19 pandemic;

(3) Provide skilled, diverse, and experienced leaders, mentors, facilitators, coaches, and subject matter experts, as appropriate for the specialty area, to participants, as needed. This may include, but is not limited to, one-on-one instruction to address specific areas identified by an advisor as needing further practice, and providing written feedback from observed interpreting situations and mentoring sessions, from deaf consumers, from trained mentors, and from others, as appropriate;

(4) Develop a self-directed track and make it available to the public for independent remote learning by the end of the second year of the project. Applicants must develop a curriculum guide for each module and make available relevant materials from the training program. Applicants may offer CEUs to participants who successfully complete the self-directed track;

(5) Be based on current research and make use of practices that demonstrate a rationale or are supported by promising evidence. To meet this requirement, applicants must describe—

(i) How the proposed project will incorporate current research and practices that demonstrate a rationale or are supported by promising evidence in the development and delivery of training and in the development of products and materials;

(ii) How the proposed project will ensure interaction between project participants and individuals with disabilities who are deaf, hard of hearing, and DeafBlind and have a range of communication skills, from those

with limited language skills to those with high-level, professional language skills, as appropriate.

(c) In the narrative section of the application under "Quality of Project Services," applicants must—

(1) Demonstrate how the project will ensure equal access and treatment for eligible project participants who are members of groups who have traditionally been underrepresented based on race, color, national origin, gender, age, or disability;

(2) Describe the criteria that will be used to identify applicants for participation in the program, including any pre-assessments that may be used to determine the skill, knowledge base, and competencies of the working interpreter;

(3) Describe how the project will conduct outreach<sup>2</sup> to working interpreters, especially working interpreters from rural areas, Indian Tribes, traditionally underrepresented groups, and individuals who come from heritage signing, deaf, and CODA backgrounds;

(4) Describe how the project will provide feedback, resources, and next steps to applicants who may not be accepted into the program due to insufficient skills, knowledge base, and competencies;

(5) Describe how the program will identify skilled, diverse, and experienced leaders, mentors, facilitators, coaches, and subject matter experts, as appropriate for the specialty area, and develop necessary training for them to improve and enhance interpreting skills in their respective areas, as well as in remote delivery, as needed. Applicants must also describe how they will grow the pool of experienced personnel and create opportunities for participants to advance as mentors, coaches, and facilitators in the program;

(6) Describe the approach that will be used to enable more working interpreters to participate in and successfully complete the training program, specifically participants who need to work while in the program, have child care or elder care considerations, or live in geographically isolated areas;

(7) Describe how the project will incorporate adult learning principles and practices that demonstrate a rationale or are supported by promising evidence for adult learners;

<sup>2</sup> When preparing outreach and recruitment materials, selection criteria for training programs, as well as criteria for selecting trainers employed under the grant, applicants must cast a wide net for participants of all races and not preclude participation based on race, color, or national origin.

(8) Demonstrate how the project is of sufficient scope, intensity, and duration to adequately prepare working interpreters in the identified specialty area of training. To address this requirement, applicants must describe how—

(i) The components of the proposed project will support working interpreters' acquisition and enhancement of the competencies identified in paragraph (a)(2)(i) of these application requirements;

(ii) The components of the project will provide working interpreters opportunities to apply their content knowledge in a variety of practical settings;

(iii) The proposed project will establish induction experiences in the specialty area for participants as a requirement for completion in the training program, to the extent possible. The induction environment must be designed in such a way that meets the communication preferences of individuals who are deaf, hard of hearing, and DeafBlind. Applicants must be prepared to pivot between in-person and remote inductions during the project, as needed, throughout the duration of the COVID-19 pandemic. The number of participants completing inductions may be based on availability of opportunities and trained personnel necessary to support them. Applicants may determine the appropriate scope and length of time for the induction and must work to increase the availability of inductions in their respective specialty area, where possible;

(9) Demonstrate how the proposed project will actively engage representation from consumers, consumer organizations, and service providers, especially State VR agencies and their partners, interpreters, interpreter educators, and individuals who are deaf, hard of hearing, and DeafBlind, in all aspects of the project; and

(10) Describe how the project will conduct dissemination, coordination, and communication activities. To meet this requirement, the applicant must describe how it will—

(i) Disseminate information to working interpreters about training available in specialized areas and to State VR agencies and their partners, American Job Centers, and other workforce partners about how to locate specialized interpreters in their State and local areas;

(ii) Establish a state-of-the-art website or modify an existing website for communicating with participants and stakeholders and ensure that all material developed by the grant and posted on

the website are accessible to individuals with disabilities in accordance with section 504 of the Rehabilitation Act and title II of the Americans with Disabilities Act, as applicable. The website must provide a central location for all material related to the project, such as reports, training curricula, audiovisual materials, webinars, communities of practice, and other relevant material developed by the grantee;

(iii) Disseminate information about the project, including, but not limited to, products such as training curricula, presentations, reports, effective practices for training working interpreters in specialized areas, and other relevant information through the NCRTM;

(iv) In the final year of the budget period, ensure that all training materials have been provided to the NCRTM and the website and IT platform can be sustained, or coordinate with RSA to transition the website to the NCRTM;

(v) Establish one or more communities of practice in the specialty area of training that focuses on project activities and acts as a vehicle for communication and exchange of information among participants in the program and other relevant stakeholders;

(vi) Communicate, collaborate, and coordinate with other relevant Department-funded projects, as applicable;

(vii) Maintain ongoing communication with the RSA project officer and other RSA staff as required;

(viii) Communicate, collaborate, and coordinate, as appropriate, with key staff in State VR agencies, such as the State Coordinators for the Deaf; State and local partner programs; consumer organizations and associations, including those that represent individuals who are deaf, hard of hearing, and DeafBlind; and relevant RSA partner organizations and associations; and

(ix) Disseminate to associate, baccalaureate, or graduate degree ASL-English programs, as well as to relevant Department-funded programs and Federal partners, as applicable, the training material and products for incorporation into existing curricula, as well as products, effective practices for training working interpreters in specialized areas, challenges and solutions, results achieved, and lessons learned. To satisfy this requirement, the grantee must develop participant guides, implementation materials, toolkits, manuals, and other relevant material for interpreter educators and

others, as appropriate, to incorporate or build into existing programs.

(d) In the narrative section of the application under "Quality of the Evaluation Plan," include an evaluation plan. To meet this requirement, the evaluation plan must describe—

(1) Standards and targets for measuring the effectiveness of the program;

(2) An approach for measuring knowledge, skills, and competencies before and after successful completion of training;

(3) An approach for measuring outcomes for participants that completed an induction compared to those who did not prior to successfully completing the program;

(4) An approach for gathering information from participants about their estimated percentage of workload interpreting for individuals who are deaf or hard of hearing and individuals who are DeafBlind receiving VR services and/or services from other programs, such as independent living services, before and after specialty training;

(5) An approach for incorporating oral and written feedback from trainers and deaf consumers and any feedback from coaching or mentoring sessions conducted with the participants;

(6) Methodologies, including instruments, data collection methods, and analyses that will be used to evaluate the project and how the methods of evaluation will produce quantitative and qualitative data to demonstrate whether the project activities achieved their intended outcomes;

(7) Measures of progress in implementation, including the extent to which the project activities and products have reached their intended recipients, measures of intended outcomes or results in order to evaluate those activities, and how well the goals and objectives of the proposed project, as described in the logic model (as defined in 34 CFR 77.1), have been met;

(8) How the evaluation will be coordinated, implemented, and revised, as needed, during the project. The applicant must designate at least one individual with sufficient dedicated time, demonstrated experience in evaluation, and knowledge of the project to coordinate and conduct the evaluation. This may include, but is not limited to, making revisions post award in order to reflect any changes or clarifications, as needed, to the model and to the evaluation design and instrumentation with the logic model (e.g., designing instruments and developing quantitative or qualitative data collections that permit collecting of

progress data and assessing project outcomes); and

(9) How evaluation results will be used to examine the effectiveness of the training. To address this requirement, applicants must provide an approach for determining—

(i) What practice(s) was most effective in training working interpreters in the respective specialty area and what data demonstrates the practice(s) was effective; and

(ii) What practice(s) was most effective in narrowing working interpreters' skill gaps and what data demonstrates the practice(s) was effective.

(e) Demonstrate, in the narrative section of the application under "Adequacy of Project Resources," how—

(1) The proposed project will encourage applications for employment with the project from persons who are members of groups that have historically been underrepresented based on race, color, national origin, gender, age, or disability;

(2) Describe any proposed consultants or contractors named in the application and their areas of expertise and provide a rationale to demonstrate the need;

(3) Describe costs associated with technology, including, but not limited to, maintaining an online learning platform, state-of-the-art archiving and dissemination platform, and communication tools (i.e., Microsoft Teams, Zoom, Google, Amazon Chime, Skype, etc.), ensuring all products and services are accessible to individuals with disabilities in accordance with section 504 of the Rehabilitation Act and title II of the Americans with Disabilities Act, as applicable, including costs associated with captioning and transcription services, and cybersecurity; and

(4) The applicant and any identified partners have adequate resources to carry out the proposed activities.

(f) Demonstrate, in the narrative section of the application under "Quality of the Management Plan," how applicants will ensure that—

(1) The project's intended outcomes, including the evaluation, will be achieved on time and within budget, through—

(i) Clearly defined responsibilities of key project personnel, consultants, and contractors, as applicable;

(ii) Procedures to track and ensure completion of the action steps, timelines, and milestones established for key project activities, requirements, and deliverables;

(iii) Internal monitoring processes to ensure that the project is being

implemented in accordance with the established application and project plan; and

(iv) Internal financial management controls to ensure accurate and timely obligations, drawdowns, and reporting of grant funds, as well as monitoring contracts, in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200 and the terms and conditions of the Federal award.

(2) The allocation of key project personnel, consultants, and contractors, as applicable, including levels of effort of key personnel that are appropriate and adequate to achieve the project's intended outcomes, including an assurance that key personnel will have enough availability to ensure timely communications with stakeholders and RSA;

(3) The products and services are of high quality, relevance, and usefulness, in both content and delivery;

(4) The proposed project will benefit from a diversity of perspectives; and

(5) Projects will be awarded and must be operated in a manner consistent with nondiscrimination requirements contained in the Federal civil rights laws.

(g) Address the following application requirements. Applicants must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and short and long-term outcomes of the proposed project;

(2) Include, in Appendix A, person-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative; and

(3) Provide an assurance that any interpreters trained or retrained under this program will meet the standards of competency for a qualified professional, defined in 34 CFR 396.4(c) as an individual who has: (i) Met existing certification or evaluation requirements equivalent to the highest standards approved by certifying associations; and (ii) successfully demonstrated interpreting skills that reflect the highest standards approved by certifying associations through prior work experience.

*Program Authority:* 29 U.S.C. 709(c) and 772(a) and (f).

*Applicable Program Regulations:* 34 CFR part 396.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and

Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 396. (e) The NFP.

*Note:* The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

*Note:* The regulations in 34 CFR part 86 apply to institutions of higher education only.

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* \$3,360,000.

*Maximum Award:* We will not make an award exceeding \$420,000 for a single budget period of 12 months.

*Estimated Number of Awards:* 8.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

The Secretary intends to fund a total of eight national projects in FFY 2021. The Secretary intends to fund one project in each specialty area, (1) through (4), listed under the Absolute Priority section of this notice, provided that we receive applications of sufficient quality. In addition, the Secretary intends to fund four projects in specialty area (5). As a result, the Secretary may fund applications out of rank order. In the event that there are no applications submitted or deemed eligible to fund in specialty areas (1) through (4), the Secretary may fund more than four projects in specialty area (5).

*Note:* Section 302(f)(1)(C) of the Rehabilitation Act and 34 CFR 396.33 require the Secretary to give priority to public or private nonprofit agencies or organizations with existing programs that have a demonstrated capacity for providing interpreter training services. In the event of a peer review score tie and sufficient funding is only available to make one additional award, the Secretary will give priority to a public or private nonprofit agency or organization with an existing program that has a demonstrated capacity for providing interpreter training services.

*Note:* The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months.

*Continuing the Fourth and Fifth Years of the Program:*

In deciding whether to continue funding the fourth and fifth years, the Department will consider the requirements of 34 CFR 75.253(a). In addition, as part of the review of the application narrative and annual performance reports, RSA will consider the degree to which the program demonstrates substantial progress toward completing project activities outlined in the priority, as well as the timeliness and effectiveness with which all requirements of the grant award have been or are being met by the grantee, including the submission of annual performance reports, and adherence to fiduciary responsibilities related to the budget submitted in the application per 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," and the Education Department General Administrative Regulations.

## III. Eligibility Information

1. *Eligible Applicants:* State and public or nonprofit agencies and organizations, including American Indian Tribes and IHEs.

*Note:* If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see [www2.ed.gov/about/offices/list/ocfo/intro.html](http://www2.ed.gov/about/offices/list/ocfo/intro.html).

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All

administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees*: A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

#### IV. Application and Submission Information

##### 1. Application Submission

*Instructions*: Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at [www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf](http://www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf), which contain requirements and information on how to submit an application.

##### 2. Submission of Proprietary

*Information*: Given the types of projects that may be proposed in applications for this program, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define “business information” and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under “Other Attachments Form,” please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review*: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards by the end of FY 2021.

4. *Funding Restrictions*: We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit*: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1)

limit the application narrative to no more than 45 pages and (2) use the following standards:

- A “page” is 8.5” x 11”, on one side only, with 1” margins at the top, bottom, and both sides.

- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

#### V. Application Review Information

1. *Selection Criteria*: The selection criteria for this competition are a combination of selection criteria under 34 CFR 396.31, 34 CFR 75.209, and 34 CFR 75.210, have a maximum score of 100 points, and are as follows:

(a) *Program-specific*. (20 points)

(1) The Secretary reviews each application to determine the extent to which—

(i) The proposed interpreter training project was developed in consultation with State Vocational Rehabilitation agencies and their related agencies and consumers;

(ii) The training is appropriate to the needs of both individuals who are deaf or hard of hearing and individuals who are DeafBlind and to the needs of public and private agencies that provide services to either individuals who are deaf or hard of hearing or individuals who are DeafBlind in the geographical area to be served by the training project;

(iii) Any curricula for the training of interpreters includes evidence-based practices and promising practices when evidence-based practices are not available;

(iv) There is a working relationship between the interpreter training project and State Vocational Rehabilitation agencies and their related agencies, and consumers; and

(v) There are opportunities for individuals who are deaf or hard of hearing and individuals who are DeafBlind to provide input regarding

the design and management of the training project.

(b) *Quality of the project design*. (25 points)

(1) The Secretary considers the quality of the project design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives.

(iii) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project.

(c) *Quality of project services*. (15 points)

(1) The Secretary considers the quality of services to be provided by the proposed project.

(2) In determining the quality of project services, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(d) *Quality of the project evaluation*. (20 points)

(1) The Secretary considers the quality of the evaluation to be conducted by the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are

clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(e) *Quality of project personnel and adequacy of resources.* (10 points)

(1) The Secretary considers the quality of personnel who will carry out the proposed project and the adequacy of project resources for the proposed project.

(2) In determining the quality of project personnel and adequacy of resources, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel.

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(f) *Quality of the management plan.* (10 points)

(1) The Secretary considers the quality of the management plan.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those

applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10 in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an

objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115—232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing

requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit annual performance reports that provide the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to [www.ed.gov/fund/grant/apply/appforms/appforms.html](http://www.ed.gov/fund/grant/apply/appforms/appforms.html).

5. *Performance Measures:* The Government Performance and Results Act of 1993 (GPRA) directs Federal departments and agencies to improve the effectiveness of their programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

For the purposes of GPRA and Department reporting under 34 CFR 75.110, we have established the following program measures:

*Measure 1:* The number of working interpreters enrolled in specialized training.

*Measure 2:* Of those enrolled, the number and percentage of working interpreters who successfully complete specialized training.

*Measure 3:* The number and percentage of working interpreters who successfully completed specialized training and subsequently reported using the knowledge and skills obtained during specialized training in their interpreting work.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

## VII. Other Information

*Accessible Format:* On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Katherine Neas,**

*Acting Assistant Secretary for the Office of Special Education and Rehabilitative Services.*

[FR Doc. 2021-15914 Filed 7-22-21; 4:15 pm]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

[Docket No. ED-2021-SCC-0110]

### Agency Information Collection Activities; Comment Request; National Implementation Study of Student Support and Academic Enrichment Grants (Title IV, Part A)

**AGENCY:** Institute of Education Sciences (IES), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new collection.

**DATES:** Interested persons are invited to submit comments on or before September 24, 2021.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2021-SCC-0110. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [www.regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208B, Washington, DC 20202-8240.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Michael Fong, (202) 245-8407.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance

the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* National Implementation Study of Student Support and Academic Enrichment Grants (Title IV, Part A).

*OMB Control Number:* 1850–NEW.

*Type of Review:* New collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 661.

*Total Estimated Number of Annual Burden Hours:* 327.

*Abstract:* This study will collect information about policy and program implementation of the grants administered under Title IV, Part A of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), to describe and report on districts' decision-making process for use of Title IV, Part A funds, how states help inform districts' decisions, and what topic areas and activities are funded with Title IV, Part A funds.

Dated: July 21, 2021.

**Stephanie Valentine,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2021–15877 Filed 7–23–21; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

[Docket ID ED–2021–OUS–0082]

### Request for Information Regarding the Public Service Loan Forgiveness Program

**AGENCY:** Office of the Under Secretary, U.S. Department of Education.

**ACTION:** Request for information.

**SUMMARY:** The U.S. Department of Education (Department) is requesting information in the form of written comments that may include information, research, and suggestions regarding the administration of the Public Service Loan Forgiveness (PSLF) program. The Office of the Under Secretary solicits these comments to identify operational improvements to the PSLF program and to inform determinations about technical improvements, borrower experiences,

policy considerations, or other factors that should be considered to improve access to PSLF.

**DATES:** We must receive your comments on or before September 24, 2021.

**ADDRESSES:** Submit your response to this request for information (RFI) through the Federal eRulemaking Portal. We will not accept submissions by hand delivery, fax, or email. To ensure that we do not receive duplicate copies, please submit your comments only one time. To ensure that your comments have maximum effect in informing the Department's administration of the PSLF program, we encourage you to clearly identify the question number or topic (e.g., “borrower experience,” “proposed administrative/operational improvement,” and “proposed policy change.”) that each comment addresses.

- *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under “FAQ.”

- *Postal Mail or Commercial Delivery:* If you do not have internet access or electronic submission is not possible, you may mail written comments to the Office of the Under Secretary, U.S. Department of Education, 400 Maryland Avenue SW, Room 7E307, Washington, DC 20202. Mailed comments must be postmarked by September 24, 2021, to be accepted.

*Privacy Note:* The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

This is a request for information only. This RFI is not a request for proposals (RFP) or a promise to issue an RFP or a notice inviting applications. This RFI does not commit the Department to contract for any supply or service whatsoever. Further, we are not seeking proposals and will not accept unsolicited proposals. The Department will not pay for any information or administrative costs that you may incur in responding to this RFI. The documents and information submitted in response to this RFI become the property of the U.S. Government and will not be returned.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jean-Didier Gaina, U.S. Department of Education, 400 Maryland Ave. SW,

Room 2C172, Washington, DC 20202. Telephone: (202) 453–7551. Email: [jean-didier.gaina@ed.gov](mailto:jean-didier.gaina@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

## SUPPLEMENTARY INFORMATION:

### I. Background

It is critical for our Nation to maintain a highly educated public service workforce to serve as teachers, nurses, physicians, servicemembers in our military, social workers, legal aid attorneys, and first responders, and in a wide range of other roles that serve our communities. Concerns about shortages across the public sector and public service workforce have persisted for decades.

In response to these concerns about workforce shortages and rising student debt burdens, Congress enacted the College Cost Reduction and Access Act (Pub. L. 110–84) in 2007, creating a range of new benefits and protections for student loan borrowers, including the PSLF program. PSLF offers loan cancellation for Federal student loan borrowers who make 120 qualifying payments made while engaging in eligible public service work.<sup>1</sup>

The Department is committed to addressing the barriers to attaining PSLF and to providing debt relief to public service workers. To that end, the Department has announced its plans to establish negotiated rulemaking committees to prepare proposed regulations for programs authorized under title IV of the Higher Education Act of 1965, as amended (86 FR 28299), including the PSLF program under 34 CFR 685.219. However, the Department recognizes that there may be improvements it can make in the operational administration of the program outside of the regulatory process. Through this RFI, the Department seeks comments from the public to identify such operational opportunities to strengthen the PSLF program. For example, we are interested in ways that we might eliminate administrative barriers to borrowers receiving PSLF. Below, we provide questions to guide responses to this RFI. Although we do not intend to respond to comments received in response to this RFI, public input may inform non-

<sup>1</sup> Under the current rules, borrowers with William D. Ford Federal Direct Loans can make qualifying payments toward PSLF, and borrowers with Federal Family Education Loans (FFEL) can consolidate into Direct Consolidation Loans to become eligible for PSLF.

regulatory action by the Department to make this critical program work better for borrowers. Comments with respect to regulatory matters must be made as part of the negotiated rulemaking process.

## II. Public Service Loan Forgiveness Program

After Congress enacted the College Cost Reduction and Access Act 14 years ago, the Department promulgated regulations to implement the PSLF program. The Department also entered into a contract with the Pennsylvania Higher Education Assistance Agency (d/b/a FedLoan Servicing) to serve as the sole specialty student loan servicer handling borrowers who signal intent to pursue PSLF. Under 34 CFR 685.219, the Department established and subsequently revised the criteria a borrower must satisfy in order to have debts cancelled under PSLF.

Specifically, these regulations require a student loan borrower to satisfy five elements. To receive PSLF, a borrower must—<sup>2</sup>

- Be employed by a U.S. Federal, State, local, or Tribal government or not-for-profit organization;<sup>3</sup>
- Work full-time for that agency or organization or the equivalent of full-time across multiple agencies or organizations;
- Have Direct Loans (or consolidate other Federal student loans into a Direct Loan);
- Repay those loans under an income-driven repayment or standard repayment plan; and
- Make 120 qualifying payments.

From 2007 through 2012, public service workers with student debt tracked their own progress toward meeting the requirements for PSLF. When borrowers working in public service had questions about eligibility, the Department's servicers were borrowers' primary source of information about PSLF. Beginning in 2012, the Department offered student loan borrowers the opportunity to submit an Employer Certification Form (ECF) as a way for borrowers to provide documentation of qualifying employment throughout their service and to ensure their employer was a qualifying employer. In November 2020, the Department combined the ECF into a single application that also allows borrowers to have their status checked for PSLF and Temporary Expanded PSLF (TEPSLF) (Pub. L. 115–141),

described below. As of November 30, 2020, student loan borrowers had submitted nearly 5 million individual ECFs.<sup>4</sup> As of April 30, 2021, another 391,333 combined applications were submitted.<sup>5</sup>

On October 1, 2017, the first public service workers with student debt became eligible to receive PSLF. Since that time, the Department has discharged \$452,691,032 in student debt owed by 5,467 individual public service workers as of April 30, 2021.<sup>6</sup>

However, to date nearly 98 percent of student loan borrowers who have applied for PSLF did not receive forgiveness at the time of their application, however the majority of these borrowers have made some progress toward cancellation.<sup>7</sup> In response to the problems borrowers have faced while trying to access PSLF, the Department's Federal Student Aid office has started taking important steps to make improvements to the program.<sup>8</sup> Lump-sum payments and prepayments, which would not have previously counted for the purposes of PSLF, will now count toward borrowers' PSLF qualifying payments for up to 12 months. FSA also launched a new PSLF Help Tool in November 2020 to make it easier for borrowers to navigate PSLF to determine their eligibility and, as noted above, created a single form that allows borrowers to certify their employment and apply for PSLF and TEPSLF.<sup>9</sup>

In response to the first reports of widespread PSLF application denials, Congress temporarily expanded PSLF to provide debt relief to a broader population of student loan borrowers, establishing TEPSLF. In the three years since TEPSLF was first established, an additional 2,962 public service workers have had approximately \$130 million discharged, while more than 96 percent of TEPSLF applications have not resulted in forgiveness.<sup>10</sup>

## III. Solicitation of Comments: Strengthening the Operational Implementation of Public Service Loan Forgiveness

The Department recognizes the importance of making the PSLF requirements as clear as possible for

millions of public service workers and is actively working to make improvements to the program's administration. To help inform those efforts, the Department is seeking input from the public on ways to strengthen the operational implementation of PSLF through changes outside of regulations. The deadline for these submissions is September 24, 2021.

The Department encourages comments from individual students and student loan borrowers; organizations representing students and student loan borrowers; labor unions and other organizations representing public service workers; legal services providers and other organizations that provide counseling or direct assistance to student loan borrowers; public service employers; researchers and policy experts; student loan market participants; institutions of higher education; and other members of the public.

The Department is interested in responses to the specific questions below, as well as the general concepts and topics identified as they relate to PSLF. The Department is also interested in responses describing individual student loan borrowers' experiences while working in public service or pursuing PSLF. When responding to this RFI, please address one or more of the following questions:

### *Public Service & Student Debt*

1. What are the direct and indirect effects of student debt on America's public service workforce?
2. What are the direct and indirect benefits of PSLF for America's public service workforce, including the effects of PSLF on individual borrowers, on the labor market, on communities, and on the populations served by public service workers?
3. Does PSLF provide a strong incentive for borrowers to engage in public service work? How are public service workers' employment decisions affected by their debt and by PSLF?

### *Experiences With Public Service Loan Forgiveness*

4. What borrower experiences should the Department and Congress consider when making improvements to PSLF?
5. What features of PSLF are most difficult for borrowers to navigate?
6. What role do loan servicers play in making it easier or harder for borrowers to access PSLF?
7. What barriers prevent public service workers with student debt from pursuing PSLF or receiving loan forgiveness under PSLF?

<sup>2</sup> <https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service>.

<sup>3</sup> See 34 CFR 685.219 for the complete definition of "public service organization."

<sup>4</sup> <https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data>.

<sup>5</sup> <https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data>.

<sup>6</sup> <https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data>.

<sup>7</sup> <https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data>.

<sup>8</sup> <https://studentaid.gov/articles/see-whats-new-pslf-program/>.

<sup>9</sup> <https://studentaid.gov/pslf/>.

<sup>10</sup> <https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data>.

8. For borrowers who have or had loans other than from the Direct Loan program, what have your experiences been when trying to access or participate in PSLF?

9. How can communications about PSLF requirements be improved?

10. What are the common questions that borrowers have about PSLF?

*Opportunities To Strengthen PSLF for Borrowers Who Currently Work in Public Service*

11. What operational steps can the Department take to strengthen PSLF and better serve public service workers who currently owe student debt, including borrowers who have already applied for and been denied PSLF?

12. What steps can the Department take to improve borrowers' experiences in applying for PSLF?

13. What steps or improvements can servicers make to improve borrowers' experiences in applying for PSLF?

14. What can the Department do to better partner with employers to ensure that all borrowers know about the benefits of PSLF?

*The Effects of the COVID-19 Pandemic on Student Loan Borrowers Working in Public Service*

15. How has the COVID-19 pandemic affected borrowers' ability to access PSLF?

16. Are there any considerations about PSLF that the Department should bear in mind as it prepares for the end of the COVID-19 administrative forbearance on Direct Loans?

**Accessible Format:** On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search

feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Program Authority:** 20 U.S.C. 1087e(m).

**Julie Margetta Morgan,**

*Delegated the authority to perform the functions and duties of the Under Secretary, Senior Advisor, Office of the Under Secretary.*

[FR Doc. 2021-15831 Filed 7-23-21; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED-2021-SCC-0111]

### Agency Information Collection Activities; Comment Request; Implementation of Title I/II-A Program Initiatives—Preliminary Activities

**AGENCY:** Institute of Educational Science (IES), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before September 24, 2021.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2021-SCC-0111. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [www.regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208C, Washington, DC 20202-8240.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Erica Johnson, 202-245-7676.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

**Title of Collection:** Implementation of Title I/II-A Program Initiatives—Preliminary Activities.

**OMB Control Number:** 1850-NEW.

**Type of Review:** A new information collection.

**Respondents/Affected Public:** State, Local, and Tribal Governments.

**Total Estimated Number of Annual Responses:** 92.

**Total Estimated Number of Annual Burden Hours:** 15.

**Abstract:** When the primary federal law governing K-12 schooling was updated in 2015 as the Every Student Succeeds Act (ESSA), it shifted many decisions to states and districts. However, through two of its core programs (Title I and Title II-A), ESSA retained federal requirements for states to set challenging content standards, assess student performance, identify and support low-performing schools, and promote the development of the educator workforce. How states and districts respond to the combination of flexibility and requirements and how policies are enacted in schools and classrooms will determine whether ESSA stimulates educational improvement as intended, which is particularly important in the wake of

educational disruptions wrought by the coronavirus pandemic.

This is the first of two clearance requests. This first package requests clearance to inform school districts of the study and collect teacher lists for the purpose of preparing to conduct a nationally representative survey in spring 2022. The second package, to be submitted at a later date, will request clearance for state, district, principal, and teacher survey instruments and the collection of these data.

Dated: July 21, 2021.

**Juliana Pearson,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2021-15879 Filed 7-23-21; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Notice of Inquiry on Preparation of Report to Congress on the Price-Anderson Act

**AGENCY:** Office of General Counsel, DOE.

**ACTION:** Notice of inquiry on preparation of report to Congress on the Price-Anderson Act.

**SUMMARY:** The Department of Energy (the “Department” or “DOE”) is requesting public comment concerning the need for continuation or modification of the provisions of the Price-Anderson Act (PAA) as administered by DOE. The PAA establishes a system of financial protection that encourages the safe and secure operation of nuclear power and other nuclear activities and assures equitable compensation of victims in the event of a nuclear incident. Comments from the public will assist the Department in the preparation of its report on the PAA to be submitted to Congress by December 31, 2021, as required by the Atomic Energy Act of 1954 (AEA), as amended.

**DATES:** Written comments must be received by August 25, 2021.

**ADDRESSES:** You may submit comments to: [paareportnoi@hq.doe.gov](mailto:paareportnoi@hq.doe.gov). Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid-19 pandemic. DOE is currently suspending receipt of public

comments via postal mail and hand delivery/courier. If a commenter finds that this change poses undue hardship, please contact the Office of the General Counsel staff at (202) 586-2177 to discuss the need for alternative arrangements. Once the Covid-19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

#### FOR FURTHER INFORMATION CONTACT:

Stewart Forbes, Office of the Assistant General Counsel for Civilian Nuclear Programs, U.S. Department of Energy, Room 6A-167, 1000 Independence Ave. SW, Washington, DC 20585; Email: [stewart.forbes@hq.doe.gov](mailto:stewart.forbes@hq.doe.gov); and Phone: (202) 586-2177.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The PAA was enacted in 1957 as an amendment to the AEA to encourage the development of nuclear power and nuclear activities by establishing a system of financial protection for persons who may be liable for and persons who may be injured by a nuclear incident.<sup>1</sup> DOE and the Nuclear Regulatory Commission (NRC) are authorized to administer the PAA system of financial protection with respect to DOE contractual activities and NRC licensees, respectively. While both the DOE and NRC systems of financial protection are underpinned by many of the same PAA principles and provisions, they are administered and applicable in different ways. In the DOE system, the PAA financial protection is in the form of a DOE indemnification and applies to all DOE contractors undertaking activities that involve the risk of a nuclear incident. In the NRC system, the PAA financial protection requirements for NRC licensees is in the form of insurance and/or indemnification, or neither depending on the type of nuclear installation and nuclear operator.<sup>2</sup> This Notice is

<sup>1</sup> Price-Anderson Act, Public Law 85-256, 71 Stat. 576 (amending Atomic Energy Act of 1954, Public Law 83-703, codified as amended at 42 U.S.C. 2011 *et seq.*). (For brevity, the Atomic Energy Act of 1954 will be cited throughout simply as “Atomic Energy Act” or AEA.) The pertinent sections of the PAA amended AEA § 11 and created AEA § 170, which are codified respectively at 42 U.S.C. 2014 and 2210.

<sup>2</sup> See U.S. Nuclear Reg. Comm’n, *The Price Anderson Act—Crossing the Bridge to the Next Century: A Report to Congress 1–8* (1998), <https://www.nrc.gov/docs/ML1217/ML12170A857.pdf> (describing the NRC PAA financial protection scheme); 10 CFR part 140, Financial Protection Requirements and Indemnity Agreements (NRC regulations implementing the PAA financial protection requirements for licensees and the indemnification and liability limitations); and

focused on the PAA as applicable to and administered by DOE.

As explained previously, the DOE PAA system of financial protection is in the form of an indemnification by DOE (“DOE Price-Anderson indemnification”) for legal liability for a nuclear incident or a precautionary evacuation arising from activity under a DOE contract. The DOE Price-Anderson indemnification: (1) Provides omnibus coverage of all persons who might be legally liable; (2) indemnifies fully all legal liability up to the statutory limit on such liability (as of 2018 approximately \$13.7 billion, inflation-adjusted, for a nuclear incident in the United States<sup>3</sup>); (3) covers all DOE contractual activity that might result in a nuclear incident in the United States; (4) is not subject to the availability of funds;<sup>4</sup> and (5) is mandatory and exclusive.

The PAA has been amended several times since enactment. The most recent amendment was the Price-Anderson Amendments Act of 2005 (“2005 Amendments”), passed as part of the Energy Policy Act of 2005 (Title VI, Subtitle A).<sup>5</sup> The 2005 Amendments extended the authority of DOE to grant the DOE Price-Anderson indemnification until December 31, 2025.<sup>6</sup> Along with the extension, Congress amended section 170p. of the AEA to mandate, as it had done with a prior extension, that DOE submit a report to Congress by December 31, 2021 (“2021 Report”) on whether provisions of the PAA should be continued, modified, or eliminated.<sup>7</sup>

Inflation Adjustments to the Price-Anderson Act Financial Protection Regulations, 83 FR 48202 (Sept. 24, 2018) (adjusting the total and maximum deferred premiums under the PAA for certain reactors).

<sup>3</sup> Adjustment of Indemnification Amount for Inflation, 83 FR 49374 (Oct. 1, 2018) (adjusting the statutory public liability limit to the present \$13.7 billion).

<sup>4</sup> Price-Anderson Act, *supra* note 1, at § 4 (amending Atomic Energy Act § 170j., codified as amended at 42 U.S.C. 2210(j)).

<sup>5</sup> Price-Anderson Amendments Act of 2005, Public Law 109-58, tit. VI, 119 Stat. 779 (amending Atomic Energy Act § 170, codified as amended at 42 U.S.C. 2210).

<sup>6</sup> *Id.* at tit. VI, § 602(b) (amending Atomic Energy Act § 170d.(1)(A), codified as amended at 42 U.S.C. 2210(d)(1)(A)). The NRC’s authority for the PAA system of financial protection was similarly extended.

<sup>7</sup> *Id.* at tit. VI, § 606 (amending Atomic Energy Act § 170p., codified as amended at 42 U.S.C. 2210(p)). As amended, section 170p. of the AEA requires the Secretary of Energy and the NRC to “submit to the Congress by December 31, 2021, detailed reports concerning the need for continuation or modification of the provisions of [the PAA], taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors and shall include

DOE values input from the public on the efficacy and operation of the PAA. DOE is issuing this Notice of Inquiry (“Notice” or NOI) to solicit comments from the public and interested stakeholders to assist DOE in the development of its recommendations as to whether provisions of the PAA should be continued, modified, or eliminated.

This NOI is similar to a Notice of Inquiry published in 1997 (“1997 NOI”).<sup>8</sup> In 1998, DOE submitted a report to Congress pursuant to then-applicable section 170p. (“1998 Report”).<sup>9</sup> In preparing the 1998 Report, DOE published the 1997 NOI in the **Federal Register** requesting public comment to assist DOE in preparing the 1998 Report. The 1997 NOI included a comprehensive history and explanation of the PAA to assist members of the public in formulating comments.<sup>10</sup>

This NOI provides an update on significant changes in law or circumstances since the 1998 Report, including: (1) A summary of recommendations from the 1998 Report; (2) a summary of the 2005 Amendments; and (3) an update on the Convention on Supplementary Compensation for Nuclear Damage (the “Convention” or CSC) as it relates to the PAA. To facilitate the preparation of public comments, the NOI also includes a non-exhaustive list of questions and topics to be considered and that may be addressed by DOE in the 2021 Report. Last, to further assist the public in preparing comments, DOE recommends review and reference to the 1997 NOI and the 1998 Report, both of which provide a comprehensive history and explanation of the PAA.

## II. Significant Updates

### 1. 1998 Report to Congress

In 1988, Congress passed the Price-Anderson Amendments Act of 1988 (“1988 Amendments”), ushering in several new and updated provisions in the PAA: It increased the amount of the indemnification from \$500 million to

\$9.43 billion; made the DOE indemnification mandatory in all DOE contracts involving the risk of a nuclear incident; and established a system of civil penalties for DOE contractors, subcontractors, and suppliers covered by the indemnification.<sup>11</sup> In the 1988 Amendments, Congress also extended authority for the DOE Price-Anderson indemnification to August 1, 2002<sup>12</sup> and mandated that DOE submit a report to Congress in 1998, four years prior to the expiration of authorization of the PAA, on the need for its continuation, modification, or elimination.<sup>13</sup>

DOE issued the required report, recommending renewal of the PAA as being in the “best interests of DOE, its contractors, its subcontractors and suppliers, and the public.”<sup>14</sup> The 1998 Report included five key recommendations: (1) DOE indemnification should continue as-is; (2) DOE indemnification amounts “should not be decreased”; (3) “Broad and mandatory coverage” for contracted activities should continue to be provided by DOE indemnification; (4) DOE should have “continued authority to impose civil penalties for violations of nuclear safety requirements by for-profit contractors, subcontractors and suppliers”; and (5) the CSC “should be ratified and conforming amendments to the [PAA]” be adopted.<sup>15</sup> In sum, DOE concluded that continuation of the PAA indemnification without any substantial change was essential to the Department’s ability to fulfill its statutory missions; provided protection to members of the public that may be affected by DOE’s nuclear activities; and was a cost-effective option without any satisfactory alternative.<sup>16</sup>

### 2. 2005 Amendments

After the 1988 Amendments, the 2005 Amendments were the next substantial set of changes to the PAA. Passed as part of the Energy Policy Act of 2005, the Price-Anderson Amendments Act of 2005 amended DOE authorities<sup>17</sup> to: (1) Increase the liability limit and the Department’s indemnification amount

for DOE contractors in the case of nuclear incidents within the United States to \$10 billion, to be adjusted every five years for inflation; (2) increase the liability limit and the Department’s indemnification amount for DOE contractors in the case of certain nuclear incidents outside the United States from \$100 million to \$500 million; and (3) modify section 234A of the AEA—which imposes civil penalties on DOE contractors covered by PAA indemnification for violations of DOE nuclear safety regulations—in regard to nonprofit entities that are DOE contractors. Specifically, the modifications to section 234A rescinded the automatic remission of civil penalties for DOE contractors in violation of nuclear safety regulations that are nonprofit educational institutions and repealed the exemption from such penalties for seven named entities. In its place, the 2005 Amendments imposed a limitation on civil penalties for not-for-profit contractors, subcontractors, or suppliers to not exceed the total amount of fees paid within any 1-year period under the contract under which the violation occurs.<sup>18</sup> In addition, the 2005 Amendments re-instituted the DOE mandate under section 170p. to report to Congress on the need for continuation, modification or elimination of PAA provisions, with a due date of December 31, 2021, four years prior to the 2025 expiration of the extended PAA authority.<sup>19</sup>

In response to the 2005 Amendments, DOE amended its regulations in 10 CFR part 820, Procedural Rules for DOE Nuclear Activities, to implement the new requirements concerning civil penalty assessments against certain DOE contractors, subcontractors, and suppliers.<sup>20</sup> Further in compliance with the 2005 Amendments, DOE has reset and published in the **Federal Register** every 5 years an inflation-adjustment to the liability limit and DOE indemnification amount, currently set at approximately \$13.7 billion based on a

recommendations as to the repeal or modification of any of the provisions of [the PAA].” 42 U.S.C. 2210(p). The DOE and NRC will each submit their own report to Congress.

<sup>8</sup> Preparation of Report to Congress on Price-Anderson Act, 62 FR 68272 (December 31, 1997), <https://www.govinfo.gov/content/pkg/FR-1997-12-31/pdf/97-34036.pdf> (the published 1997 NOI, to be referenced as “1997 NOI”).

<sup>9</sup> U.S. Dep’t of Energy, Report to Congress on the Price-Anderson Act (1998), <https://www.energy.gov/sites/prod/files/gcprod/documents/paa-rep.pdf> (to be referenced as “1998 Report”). Prior to its amendment in the Energy Policy Act of 2005, 42 U.S.C. 2210(p) mandated this report’s submission by August 1, 1998. *Supra* note 7.

<sup>10</sup> 1997 NOI, *supra* note 8.

<sup>11</sup> Price-Anderson Amendments Act of 1988, Public Law 100–408, 102 Stat. 1066 (amending Atomic Energy Act § 11, 170, codified as amended at 42 U.S.C. 2014, 2210).

<sup>12</sup> *Id.* at § 3 (amending Atomic Energy Act § 170c., codified as amended at 42 U.S.C. 2210(d)).

<sup>13</sup> *Id.* at § 12(2) (amending Atomic Energy Act § 170p., codified as amended at 42 U.S.C. 2210(p)).

<sup>14</sup> 1998 Report, *supra* note 9, at 1.

<sup>15</sup> *Id.* at 2.

<sup>16</sup> *Id.* at 1.

<sup>17</sup> The 2005 Amendments modified certain authorities applicable to either or both the NRC and DOE. This Notice focuses on those modifications applicable to DOE and does not address the modifications specific to the NRC.

<sup>18</sup> Price-Anderson Amendments Act of 2005, *supra* note 2, at tit. IV, §§ 604–05, 610 (amending Atomic Energy Act § 170, 234A.b, codified at 42 U.S.C. 2210(d)–(e), 2282a).

<sup>19</sup> *Id.* at tit. IV, § 606 (amending Atomic Energy Act § 170p., codified at 42 U.S.C. 2210(p)). As previously noted, the reporting requirements of section 170p. also apply to the NRC, which is responsible to submit its own report to Congress. *Supra* note 7.

<sup>20</sup> Procedural Rules for DOE Nuclear Activities, 10 CFR 820.20. For historical background, *see* Procedural Rules for DOE Nuclear Activities, 73 FR 19761 (Apr. 11, 2008) (original notice of proposed rulemaking) and Procedural Rules for DOE Nuclear Activities, 74 FR 11830 (Mar. 20, 2009) (notice of issuance of the Final Rule).

2018 adjustment.<sup>21</sup> The increases in indemnification amounts (other than the inflation adjustments) required only that DOE update its contracting policies to reflect the new indemnification limits for nuclear incidents occurring after the effective date of the 2005 Amendments (i.e., August 8, 2005).<sup>22</sup>

The preparation of the report to Congress on the need for continuation, modification or elimination of PAA provisions (which is the subject of this Notice) is one of the remaining actions to be taken by DOE in accordance with the 2005 Amendments.

### 3. Convention on Supplementary Compensation for Nuclear Damage

The CSC is an international treaty adopted under the auspices of the International Atomic Energy Agency (IAEA) that establishes a global nuclear liability regime to address legal liability and compensation of victims in the event of a nuclear incident.<sup>23</sup> The CSC provides consistent rules for addressing legal liability for Parties to the CSC and, in the event of a nuclear incident in any Party's territory, requires all Parties to contribute to an international supplementary fund to provide an additional tier of compensation beyond that available under that Party's national law.<sup>24</sup> At the time of the 1998 Report and the 2005 Amendments, the United States had signed the Convention but not ratified it. In 2006, the Senate ratified the CSC, and in the following year, Congress passed the Energy Independence and Security Act of 2007 (EISA), which includes section 934, *Convention on Supplementary Compensation for Nuclear Damage Contingent Cost Allocation*, to implement the CSC in the United States.<sup>25</sup> The CSC went into effect in

2015,<sup>26</sup> and at present has eleven member countries, and nineteen signatory countries.<sup>27</sup>

The fundamental purposes of the CSC and the PAA are the same: To support the safe and secure development of the nuclear industry while at the same time ensuring a system of prompt, equitable and meaningful compensation in the event of a nuclear incident. The CSC, like other nuclear liability treaties,<sup>28</sup> achieves these purposes by requiring a country's domestic (national) nuclear liability law to comply with certain international nuclear liability law principles. For the United States, this would have required significant changes to the PAA were it not for a provision that permits the United States to satisfy the Convention if it maintains certain provisions of the PAA that were in effect on January 1, 1995 and continue in effect.<sup>29</sup> Those provisions relate primarily to the amount and availability of financial protection to compensate for nuclear damage in the event of a nuclear incident. The provisions of relevance to DOE's PAA authority<sup>30</sup> are: (1) DOE indemnification for reactors and certain other nuclear installations;<sup>31</sup> (2)

definition of "person indemnified";<sup>32</sup> and (3) waiver of certain defenses with respect to "extraordinary nuclear occurrences."<sup>33</sup> As a result, any changes to these provisions that Congress may contemplate must be considered in light of the treaty obligations of the United States under the CSC.

Equally important, in ratifying and implementing the CSC, Congress ensured the legal and operational framework of the PAA is not affected by the compensation system established by the CSC. Section 934(a) of EISA specifies that the United States' contributions to the CSC international supplementary fund cannot upset settled expectations based on the liability regime established under the PAA.<sup>34</sup> For a nuclear incident covered by the PAA, funds already available under the PAA would be used to fulfill the United States' contributions without any increase in the amount of funds that NRC licensees must make available under the PAA. For a nuclear incident outside the United States not covered by the PAA, funds made available by a new retrospective risk pooling program for nuclear suppliers would be used to fulfill the United States' contributions.<sup>35</sup> In all cases covered by the PAA, the United States would receive more funds from the CSC international fund than its contribution to that fund and the PAA public liability amount would be increased by that incremental amount.<sup>36</sup>

Convention provision Annex art. 2.1.c in its entirety, requiring the national law of a Contracting Party to provide at least 1000 million SDRs of compensation for nuclear damage resulting from a nuclear incident at a power reactor and to provide at least 300 million SDRs of compensation for nuclear damage resulting from a nuclear incident at a non-power reactor and certain other nuclear installations).

<sup>32</sup> Atomic Energy Act § 11t., codified as amended at 42 U.S.C. 2014(t) (corresponding to Convention provision Annex art. 2.1.b, requiring the national law of a Contracting Party to indemnify any person who has legal liability for nuclear damage resulting from a nuclear incident).

<sup>33</sup> Atomic Energy Act § 170n., codified as amended at 42 U.S.C. 2210(n) (corresponding to Convention provision Annex art. 2.1.a, requiring the national law of a Contracting Party to impose strict liability with respect to a nuclear incident resulting in substantial offsite damage).

<sup>34</sup> Energy Independence and Security Act, *supra* note 25, at § 934(a)(1)(H)(i) (codified at 42 U.S.C. 17373(a)(1)(H)(i)).

<sup>35</sup> *Id.* at § 934(a)(1)(I)–(J), 934(a)(2)(B) (codified at 42 U.S.C. 17373(a)(1)(I)–(J), 42 U.S.C. 17373(a)(2)(B)). The Department initiated a rulemaking to develop and implement the retrospective risk pooling program applicable to U.S. nuclear suppliers, to be codified at 10 CFR part 951. See Convention on Supplementary Compensation for Nuclear Damage Contingent Cost Allocation, 79 FR 75076 (Dec. 17, 2014). The proposed rulemaking is currently pending.

<sup>36</sup> Energy Independence and Security Act, *supra* note 25, at § 934(d) (codified at 42 U.S.C. 17373(d)).

<sup>21</sup> *Supra* text accompanying note 3.

<sup>22</sup> U.S. Dep't of Energy, Acquisition Letter on Implementation of the Price-Anderson Amendments Act of 2005, AL-2005-15 (Oct. 5, 2005), at 2, 3. AL-2005-15 also included contracting policy updates to implement aspects of the change in civil penalty assessments for certain not-for-profit contractors resulting from the 2005 Amendments.

<sup>23</sup> Convention on Supplementary Compensation for Nuclear Damage, Sept. 29, 1997, T.I.A.S. No. 15-415 (entered into force Apr. 15, 2015) (to be referenced as "Convention"). For the full text of the Convention and related information, see *Convention on Supplementary Compensation for Nuclear Damage*, Int'l Atomic Energy Agency, <https://www.iaea.org/topics/nuclear-liability-conventions/convention-supplementary-compensation-nuclear-damage>.

<sup>24</sup> Convention, *supra* note 23, at art. 2. "Territory" is not limited to a Party's geographic boundaries (e.g., ships operating under a contracting Party's flag are included). *Id.* at art. 5.

<sup>25</sup> Energy Independence and Security Act of 2007, Public Law 110-140, 934, 121 Stat. 1492, 1741 (codified at 42 U.S.C. 17373).

<sup>26</sup> The CSC went into effect on April 15, 2015, in accordance with Article XX.1 of the Convention and acceptance by Japan. Convention, *supra* note 23, at art. 10; see Int'l Atomic Energy Agency, Convention on Supplementary Compensation for Nuclear Damage 1 (2019), [https://www-legacy.iaea.org/Publications/Documents/Conventions/supcomp\\_status.pdf](https://www-legacy.iaea.org/Publications/Documents/Conventions/supcomp_status.pdf) (showing dates of ratification, acceptance, and approval for signatories, to be referenced as "Convention Status"). Article XX.1 provides for entry into force of the Convention when at least 5 States with a minimum of 400,000 units of installed nuclear capacity have deposited an instrument of ratification, acceptance, or approval with the Director General of the IAEA. Convention, *supra* note 23, at art. 10.

<sup>27</sup> Convention Status, *supra* note 26.

<sup>28</sup> The other major nuclear liability treaties are the Paris Convention on Third Party Liability in the Field of Nuclear Energy, July 29, 1960, 1519 U.N.T.S. 329, and the Vienna Convention on Civil Liability for Nuclear Damage, May 21, 1963, 1063 U.N.T.S. 265.

<sup>29</sup> Convention, *supra* note 23, at Annex art. 2.

<sup>30</sup> The PAA provisions of specific relevance to the NRC align with: (1) NRC's financial protection requirements for reactors with capacity of 100 megawatts or greater (Atomic Energy Act § 170b., codified as amended at 42 U.S.C. 2210(b), corresponding to part of Convention provision Annex art. 2.1.c, requiring the national law of a Contracting Party to provide at least 1000 million SDRs of compensation for nuclear damage resulting from a nuclear incident at a power reactor); and (2) NRC's indemnification for reactors with capacity of 100 megawatts or less, and certain other nuclear installations (Atomic Energy Act § 170c., codified as amended at 42 U.S.C. 2210(c)), corresponding to part of Convention provision Annex art. 2.1.c, requiring the national law of a Contracting Party to provide at least 300 million SDRs of compensation for nuclear damage resulting from a nuclear incident at a non-power reactor and certain other nuclear installations.

<sup>31</sup> Atomic Energy Act § 170d., codified as amended at 42 U.S.C. 2210(d) (corresponding to

### III. List of Questions

The following is a non-exhaustive list of questions that may be relevant to the Congressional mandate of section 170p. that DOE report on “the need for continuation or modification of the provisions of [the PAA] taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors.”<sup>37</sup> While the list is current, many of the questions are reproduced in whole or in part from the 1997 NOI; they reflect questions and topics that remain pertinent today. In addition, while the list of questions may overlap with topics relevant to the NRC’s administration of the PAA, DOE requests that comments be directed to DOE and its activities as the NRC is responsible for its own report to Congress on the PAA. The list is included in this Notice to spur consideration of the PAA in its operation and effect and facilitate public comment. This list is not intended to limit or restrict the topics or areas of public comment, nor is it meant to indicate or commit that DOE will address all the questions in its report to Congress.

DOE requests the public to submit comments that identify the specific provision(s) of the PAA to which a position is expressed, be specific in regard to the DOE activity(s) in question, and explain in as much detail as possible the rationale for the position.

1. Should the DOE Price-Anderson indemnification be continued without modification?

2. Should the DOE Price-Anderson indemnification be eliminated or made discretionary with respect to all or specific DOE activities? If discretionary, what procedures and criteria should be used to determine which activities or categories of activities should receive indemnification?

3. Should the DOE Price-Anderson indemnification continue to provide omnibus coverage of all persons legally liable for nuclear damage, or should it be restricted to DOE contractors or to DOE contractors, subcontractors, and suppliers?

4. If the DOE indemnification were not available for all or specified DOE activities, are there acceptable alternatives? Possible alternatives might include Public Law 85–804, section 162 of the AEA, general contract indemnity, no indemnity, or private insurance. To the extent possible in discussing alternatives, compare each alternative to

the DOE Price-Anderson indemnification, including operation, cost, coverage, risk, and protection of potential claimants.

5. To what extent, if any, would the elimination of the DOE Price-Anderson indemnification affect the ability of DOE to perform its various missions? Explain your reasons for believing that performance of all or specific activities would or would not be affected.

6. To what extent, if any, would the elimination of the DOE Price-Anderson indemnification affect the willingness of existing or potential contractors to perform activities for DOE? Explain your reasons for believing that willingness to undertake all or specific activities would or would not be affected.

7. To what extent, if any, would the elimination of the DOE Price-Anderson indemnification affect the ability of DOE contractors to obtain goods and services from subcontractors and suppliers? Explain your reasons for believing that the availability of goods and services for all or specific DOE activities would or would not be affected.

8. To what extent, if any, would the elimination of the DOE Price-Anderson indemnification affect the ability of claimants to receive compensation for nuclear damage resulting from a DOE activity? Explain your reasons for believing the ability of claimants to be compensated for nuclear damage resulting from all or specific DOE activities would or would not be affected.

9. What is the existing and the potential availability of private insurance to cover liability for nuclear damage resulting from DOE activities? What would be the cost and the coverage of such insurance? To what extent, if any, would the availability, cost, and coverage be dependent on the type of activity involved? To what extent, if any, would the availability, cost, and coverage be dependent on whether the activity was a new activity or an existing activity? If the DOE Price-Anderson indemnification were not available, how would that affect the availability of insurance? Should DOE require contractors to obtain private insurance if the DOE Price-Anderson indemnification were not available?

10. Should the amount of the DOE Price-Anderson indemnification for all or specified DOE activities inside the United States (currently approximately \$13.7 billion, adjusted for inflation), and outside the United States (\$500 million) remain the same or be increased or decreased?

11. Should the limit on aggregate public liability be eliminated? If so, how

should the resulting unlimited liability be funded? Does the rationale for the limit on aggregate public liability differ depending on whether the nuclear incident results from a DOE activity or from an activity of an NRC licensee?

12. Should the DOE Price-Anderson indemnification continue to cover DOE contractors and other persons when a nuclear incident results from their gross negligence or willful misconduct? If not, what would be the effects, if any, on: (1) The operation of the Price-Anderson system with respect to the nuclear incident, (2) other persons indemnified, (3) potential claimants, and (4) the cost of the nuclear incident to DOE? To what extent is it possible to minimize any detrimental effects on persons other than the person whose gross negligence or willful misconduct resulted in a nuclear incident? For example, what would be the effect if the United States government were given the right to seek reimbursement for the amount of the indemnification paid from a DOE contractor or other person whose gross negligence or willful misconduct causes a nuclear incident?

13. Should the definition of nuclear incident be expanded to include occurrences that result from DOE activity outside the United States where such activity does not involve nuclear material owned by, and used by or under contract with, the United States? For example, should the DOE Price-Anderson indemnification be available for activities of DOE contractors that are undertaken outside the United States for purposes such as non-proliferation, nuclear risk reduction or improvement of nuclear safety? If so, should the DOE Price-Anderson indemnification for these additional activities be mandatory or discretionary?

14. Should the PAA be modified to extend its authorization beyond 2025, or to make permanent the authorization? If so, what would be the effect, if any, on the DOE Price-Anderson indemnification? What would be the effect, if any, on the United States’ adherence to the CSC?

15. Should the PAA be modified as necessary to enable the United States to become a party to other international nuclear liability law treaties in addition to the CSC (that is, replace state tort law with the international nuclear liability principles, including channeling all legal liability exclusively to the operator on the basis of strict liability)? If so, what would be the effect, if any, on the system of financial protection, indemnification and compensation established by the PAA?

16. Should the PAA be modified to harmonize the operation of the PAA and

<sup>37</sup> Atomic Energy Act § 170p., codified as amended at 42 U.S.C. 2210(p).

the CSC? If so, describe the modification and explain the rationale.

17. Should section 934 of EISA be modified, especially with respect to the mechanisms for funding the United States' contribution to the CSC international fund? If so, describe the modification and explain the rationale.

18. Should the procedures in the PAA for administrative and judicial proceedings be modified? If so, describe the modification and explain the rationale.

19. Should there be any modification in the types of claims covered by the PAA system?

20. What modifications in the PAA or its implementation, if any, could facilitate the prompt payment and settlement of claims?

21. Should the PAA be modified to address any unique circumstances or issues raised by the development and deployment of advanced nuclear reactors, including small modular reactors and microreactors? If so, describe the modification and explain the rationale.

22. Should the PAA be modified to address any unique circumstances or issues raised by research and development activities related to advanced nuclear reactors, including small modular reactors and microreactors at DOE sites or by DOE contractors? If so, describe the modification and explain the rationale.

23. Should the PAA be modified to address any issues raised by current or anticipated changes in the nuclear industry such as increased use of reactors with capacity of less than 100 megawatts, decreased use of reactors with capacity of greater than 100 megawatts, and deployment of fusion reactors? If so, describe the modification and explain the rationale.

24. Should the PAA be modified to address any environmental justice or equity and inclusion issues that may be associated with the implementation of the PAA, or the administration of claims covered by the PAA? If so, describe the modification and explain the rationale.

#### Signing Authority

This document of the Department of Energy was signed on July 20, 2021, by John T. Lucas, Acting General Counsel, Office of the General Counsel, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the

document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 21, 2021.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2021-15840 Filed 7-23-21; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Notice of Request for Information (RFI) on Supporting Energy Savings Performance Contracting in the Public Sector

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

**ACTION:** Request for Information (RFI).

**SUMMARY:** The U.S. Department of Energy (DOE) invites public comment on its Request for Information (RFI) number 21EE000682 regarding supporting Energy Savings Performance Contracting (ESPC) in the public sector. DOE's Office of Energy Efficiency and Renewable Energy (EERE), Weatherization and Intergovernmental Programs Office (WIP), seeks information from the public and nonprofit organizations that have the expertise to support energy savings performance contracting (ESPC) in the municipalities, universities, schools, and hospitals (MUSH) market. The desired outcome of this request is to enhance how MUSH market stakeholders can use ESPC to maximize energy and cost savings, local economies, and workforce development.

**DATES:** Responses to the RFI must be received no later than 5:00 p.m. EST on August 25, 2021.

**ADDRESSES:** Interested parties are to submit comments electronically to *ESPC\_Support\_RFI\_DOEWIP@ee.doe.gov*. Include "Supporting Energy Savings Performance Contracting in the Public Sector" in the subject of the title. Only electronic responses will be accepted. The complete RFI document is located at <https://eere-exchange.energy.gov/>.

**FOR FURTHER INFORMATION CONTACT:** Questions may be addressed to Alice Dasek at *alice.dasek@ee.doe.gov* or 202-308-0894. Further instruction can be found in the RFI document posted on EERE Exchange.

**SUPPLEMENTARY INFORMATION:** The purpose of this RFI is to solicit feedback from the public and nonprofits that have deep expertise in ESPC in the MUSH market, with solutions for the technical, contractual, and financial barriers to achieving verified savings from ESPC. EERE is specifically interested in such organizations' capacity, ability, experience, and best practices for working with state energy offices and other state and local government ESPC practitioners to design and implement ESPC in their respective states; documenting MUSH-market ESPC state program needs and current projects; facilitating MUSH market peer exchange opportunities; and providing technical assistance to build state ESPC frameworks. Respondents may describe documented expertise in the field across the country, experience leading or executing ESPC projects in the MUSH market (including all relevant technical, financial, and contractual expertise), and established network connections with ESPC practitioners in the MUSH market. This is solely a request for information and not a Funding Opportunity Announcement (FOA). EERE is not accepting applications.

*Confidential Business Information:* According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

*Signing Authority:* This document of the Department of Energy was signed on June 21, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register

Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 21, 2021.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2021-15836 Filed 7-23-21; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-2424-000]

#### Generation Bridge M&M Holdings, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Generation Bridge M&M Holdings, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 9, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021-15854 Filed 7-23-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-2429-000]

#### Tulare Solar Center, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Tulare Solar Center, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to

intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 9, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021-15851 Filed 7-23-21; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ER21–2426–000]

**CPRE 1 Lessee, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of CPRE 1 Lessee, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 9, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number

field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**  
*Deputy Secretary.*

[FR Doc. 2021–15847 Filed 7–23–21; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ER21–2408–000]

**SR Lumpkin, LLC. Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of SR Lumpkin, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 9, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling

link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**  
*Deputy Secretary.*

[FR Doc. 2021–15859 Filed 7–23–21; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ER21–2409–000]

**SR Snipesville II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of SR Snipesville II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and

385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 9, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021-15855 Filed 7-23-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-2423-000]

#### Generation Bridge Connecticut Holdings, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Generation Bridge Connecticut Holdings, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 9, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link.

Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021-15846 Filed 7-23-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 516-505]

#### Dominion Energy South Carolina, Inc.; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application submitted by Dominion Energy South Carolina, Inc. (licensee) to allow the Joint Municipal Water and Sewer Commission (JMWSC), the use of Saluda Hydroelectric (FERC No. 516) project lands and waters to construct and operate a component of a raw water withdrawal facility. Once constructed, JMWSC would initially withdraw 10 million gallons of water per day (mgd) from Lake Murray and increase its withdrawals over time, up to 50 mgd, as water supply needs dictate. The Saluda project is located on the Saluda River in Richland, Lexington, Saluda, and Newberry counties, South Carolina. Once constructed, the raw water withdrawal facility itself will be located in Lexington County. The project does not occupy federal lands.

An Environmental Assessment (EA) has been prepared as part of Commission staff's review of the proposal. This EA contains Commission staff's analysis of the potential environmental effects of the proposed action and concludes that approval of the proposal, with appropriate environmental measures, would not

constitute a major federal action significantly affecting the quality of the human environment.

The EA may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502-8659.

For further information, contact Joy Kurtz at (202) 502-6760 or by email at [joy.kurtz@ferc.gov](mailto:joy.kurtz@ferc.gov).

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**  
Deputy Secretary.

[FR Doc. 2021-15862 Filed 7-23-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2548-051]

#### Northbrook Lyons Falls, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 2548-051.

c. *Date Filed:* June 1, 2021.

d. *Submitted By:* Northbrook Lyons Falls, LLC (Northbrook).

e. *Name of Project:* Lyons Falls Hydroelectric Project.

f. *Location:* On the Moose River, in Lewis County, New York. The project does not occupy any federal land.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Sherri Loon, Coordinator, Operations; KEI (USA) Power Management Inc.; 423 Brunswick Avenue, Gardiner, ME 04345; at (207) 203-3026 or email at [sherri.loon@kruger.com](mailto:sherri.loon@kruger.com).

i. *FERC Contact:* Samantha Pollak at (202) 502-6419; or email at [samantha.pollak@ferc.gov](mailto:samantha.pollak@ferc.gov).

j. KEI Power filed its request to use the Traditional Licensing Process on June 1, 2021. KEI Power provided public notice of its request on May 26, 2021. In a letter dated July 20, 2021, the Director of the Division of Hydropower Licensing approved KEI Power's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402. We are also initiating consultation with the New York State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Northbrook as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Northbrook filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed on the Commission's website (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY).

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 2548. Pursuant to 18 CFR 16.8, 16.9, and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by May 31, 2024.

p. Register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filing and issuances related to this or other pending projects.

For assistance, contact FERC Online Support.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**  
Deputy Secretary.

[FR Doc. 2021-15861 Filed 7-23-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-2445-000]

#### Glacier Sands Wind Power, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Glacier Sands Wind Power, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 9, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**  
*Deputy Secretary.*

[FR Doc. 2021-15848 Filed 7-23-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-2406-000]

#### Lancaster Solar LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Lancaster Solar LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 9, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**  
*Deputy Secretary.*

[FR Doc. 2021-15863 Filed 7-23-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-2407-000]

#### SR Georgia Portfolio II Lessee, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of SR Georgia Portfolio II Lessee, LLC's application for market-based rate

authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 9, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**  
*Deputy Secretary.*

[FR Doc. 2021-15860 Filed 7-23-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-2441-000]

#### In Commodities US LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of In Commodities US LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 9, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all

interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**  
*Deputy Secretary.*

[FR Doc. 2021-15852 Filed 7-23-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-2410-000]

#### Prairie Wolf Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Prairie Wolf Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 9, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>.

To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**  
*Deputy Secretary.*

[FR Doc. 2021-15856 Filed 7-23-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER17-615-005; ER12-1432-010; ER12-1435-010.

*Applicants:* Albany Green Energy, LLC, ReEnergy Livermore Falls LLC, ReEnergy Stratton LLC.

*Description:* Notice of Change in Status of Albany Green Energy, LLC, et al.

*Filed Date:* 7/19/21.

*Accession Number:* 20210719-5212.

*Comments Due:* 5 p.m. ET 8/9/21.

*Docket Numbers:* ER17-1433-003.  
*Applicants:* PJM Interconnection, L.L.C.

*Description:* Compliance filing: FTR Forfeiture Rule Compliance Filing to be effective 12/31/9998.

*Filed Date:* 7/19/21.

*Accession Number:* 20210719-5186.

*Comments Due:* 5 p.m. ET 8/9/21.

*Docket Numbers:* ER21-55-001.

*Applicants:* Mesquite Power, LLC.

*Description:* Compliance filing: Supplement To Pending Cost Justification Filing of Mesquite Power, LLC to be effective N/A.

*Filed Date:* 7/19/21.

*Accession Number:* 20210719-5174.

*Comments Due:* 5 p.m. ET 8/9/21.

*Docket Numbers:* ER21-59-001.

*Applicants:* Brookfield Renewable Trading and Marketing LP.

*Description:* Compliance filing: Supplement to Oct 7, 2020 Justification of Spot Market Sales Above Soft Cap to be effective N/A.

*Filed Date:* 7/19/21.

*Accession Number:* 20210719-5166.

*Comments Due:* 5 p.m. ET 8/9/21.

*Docket Numbers:* ER21-2028-001.

*Applicants:* Tucson Electric Power Company.

*Description:* Tariff Amendment: Amendment to Filing of Service Agreement to be effective 5/1/2021.

*Filed Date:* 7/20/21.

*Accession Number:* 20210720-5045.

*Comments Due:* 5 p.m. ET 8/10/21.

*Docket Numbers:* ER21-2169-000.

*Applicants:* Entergy Arkansas, LLC.

*Description:* Report Filing: EAL Refund Report (ER21-2169) to be effective N/A.

*Filed Date:* 7/19/21.

*Accession Number:* 20210719-5124.

*Comments Due:* 5 p.m. ET 8/9/21.

*Docket Numbers:* ER21-2463-000.

*Applicants:* Public Service Company of New Mexico.

*Description:* Compliance filing: WECC Price cap to be effective 11/13/2020.

*Filed Date:* 7/19/21.

*Accession Number:* 20210719-5173.

*Comments Due:* 5 p.m. ET 8/9/21.

*Docket Numbers:* ER21-2464-000.

*Applicants:* Avangrid Renewables, LLC.

*Description:* Compliance filing: Spot Sales at Prices Exceeding the WECC "Soft" Cap to be effective N/A.

*Filed Date:* 7/19/21.

*Accession Number:* 20210719-5182.

*Comments Due:* 5 p.m. ET 8/9/21.

*Docket Numbers:* ER21-2465-000.

*Applicants:* Equilon Enterprises LLC.

*Description:* Compliance filing: New eTariff Baseline Filing to be effective 6/2/2021.

*Filed Date:* 7/20/21.

*Accession Number:* 20210720-5051.

*Comments Due:* 5 p.m. ET 8/10/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021-15850 Filed 7-23-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP21-973-000.

*Applicants:* Adelphia Gateway, LLC.

*Description:* § 4(d) Rate Filing:

Adelphia Tariff Revisions July 19 to be effective 8/19/2021.

*Filed Date:* 7/19/21.

*Accession Number:* 20210719-5139.

*Comments Due:* 5 p.m. ET 8/2/21.

*Docket Numbers:* RP21-974-000.

*Applicants:* Transcontinental Gas Pipe Line Company, LLC.

*Description:* § 4(d) Rate Filing: Rate Schedule FT—Section 2.7—SEP Capacity (2) to be effective 8/19/2021.

*Filed Date:* 7/19/21.

*Accession Number:* 20210719-5179.

*Comments Due:* 5 p.m. ET 8/2/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211

and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021-15849 Filed 7-23-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RM98-1-000]

#### Records Governing Off-the-Record Communications

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record

communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 30

CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference

Room or may be viewed on the Commission's website at <http://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. P-2082-062, P-14803-000, P-14803-004 .....	7-19-2021	FERC Staff. <sup>1</sup>
2. P-2082-062, P-14803-000, P-14803-004 .....	7-20-2021	FERC Staff. <sup>2</sup>
Exempt:		
EC21-77-000 .....	7-19-2021	U.S. Congress. <sup>3</sup>

<sup>1</sup> Emailed comments dated 7/17/2021 from William E. Simpson II.

<sup>2</sup> Emailed comments dated 7/20/2021 from William E. Simpson II.

<sup>3</sup> U.S. Senator Sherrod Brown and Representatives Marcy Kaptur and Tim Ryan.

Dated: July 20, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021-15858 Filed 7-23-21; 8:45 am]

**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2003-0078; FRL 8681-01-OAR]

### Proposed Information Collection Request; Comment Request; Landfill Methane Outreach Program (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), "Landfill Methane Outreach Program" (EPA ICR No. 1849.10, OMB Control No. 2060-0446) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through April 30, 2022. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before September 24, 2021.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ-OAR-2003-0078, online using [www.regulations.gov](http://www.regulations.gov) (our preferred

method), by email to [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Lauren Aepli, Climate Change Division, Office of Atmospheric Programs, (6207A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343-9423; fax number: (202) 343-2342; email address: [aepli.lauren@epa.gov](mailto:aepli.lauren@epa.gov).

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov) or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have

practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

**Abstract:** The Landfill Methane Outreach Program (LMOP), created by EPA as part of the United States' commitment to reduce greenhouse gas emissions under the United Nations Framework Convention on Climate Change, is a voluntary program designed to encourage and facilitate the development of environmentally and economically sound landfill gas (LFG) energy projects across the United States to reduce methane emissions from landfills. LMOP meets these objectives by educating local governments and communities about the benefits of LFG recovery and use; building partnerships between state agencies, industry, energy service providers, local communities, and other stakeholders interested in developing this valuable resource in their community; and providing tools to

evaluate LFG energy potential. LMOP signed voluntary Memoranda of Understanding (MOUs) with these organizations to enlist their support in promoting cost-effective LFG utilization. The information collection includes completion and submission of the MOU, periodic information updates, and annual completion and submission of basic information on landfill methane projects with which the organizations are involved as an effort to update the LMOP Landfill and Landfill Gas Energy Project Database. The information collection is to be utilized to maintain up-to-date data and information about LMOP Partners and LFG energy projects with which they are involved. The data will also be used by the public to access LFG energy project development opportunities in the United States. In addition, the information collection will assist EPA in evaluating the reduction of methane emissions from landfills. No confidential information is requested or required in this information collection.

*Form Numbers:* 5900–157, 5900–158, 5900–159, 5900–160, and 5900–161.

*Respondents/affected entities:* Private companies and municipalities that own or operate landfills; manufacturers and suppliers of equipment/knowledge to capture and utilize LFG; utility companies; end-users of energy from landfills; developers of LFG energy projects; State agencies; and other LFG energy stakeholders.

*Respondent's obligation to respond:* Voluntary.

*Estimated number of respondents:* 1,066 (total).

*Frequency of response:* Annual.

*Total estimated burden:* 2,176 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* \$199,457 (per year), includes \$0 annualized capital or operation & maintenance costs.

*Changes in estimates:* There is decrease of 94 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to anticipated slowed growth in the number of new LMOP Partners annually.

**Paul M. Gunning,**

*Director, Climate Change Division.*

[FR Doc. 2021–15803 Filed 7–23–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL–8700–01–R9]

### Clean Air Act Operating Permit Program: Petition To Object to Operating Permits for the Drews and Century Power Generating Facilities in Southern California

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final action.

**SUMMARY:** The Environmental Protection Agency (EPA) Administrator signed an Order, dated May 10, 2021, denying a petition to object to Clean Air Act (CAA) title V operating permits issued to two facilities by the South Coast Air Quality Management District (SCAQMD). The EPA's May 10, 2021 Order responds to a November 24, 2020 petition submitted by the Sierra Club and the Center for Community Action and Environmental Justice (the "Petitioners"). The Petitioners requested that the EPA object to the issuance of two title V renewal operating permits issued to Colton Power, LP's Drews Power Generating Station and Century Power Generating Station, located in San Bernardino County, California. The Order constitutes final action on the petition requesting the Administrator object to the issuance of the proposed CAA title V permits.

**DATES:** Pursuant to section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), judicial review of this final agency action, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit within 60 days of July 26, 2021.

**ADDRESSES:** Copies of the petition and Order are available at <https://www.epa.gov/title-v-operating-permits/title-v-petition-database>. For additional information, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Lisa Beckham, EPA Region 9, 75 Hawthorne Street (AIR–3–1), San Francisco, California 94105. By phone at (415) 972–3811, or by email at [beckham.lisa@epa.gov](mailto:beckham.lisa@epa.gov).

**SUPPLEMENTARY INFORMATION:** The CAA affords the EPA a 45-day period to review and, as appropriate, the authority to object to operating permits proposed by state and local permitting authorities under title V of the CAA, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the CAA and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V

operating permit within 60 days after the expiration of EPA's 45-day review period if the EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after the comment period.

On November 24, 2020, the EPA received a petition requesting that the EPA object to the CAA title V renewal permits for Colton Power, LP's Drews Power Generating Station (Facility ID No. 182561) and Century Power Generating Station (Facility ID No. 182563) ("Permits"). The Petitioners claim that the Permits must be revised to include the more stringent oxides of nitrogen (NO<sub>x</sub>) emissions limit in a recently amended version of local SCAQMD Rule 1134. The NO<sub>x</sub> emissions limit has a compliance date of January 1, 2024 and the Petitioners argued that the Permits must be revised now because the compliance date occurs before the expiration of the Permits. The Petitioners further argued that if the operator has not yet chosen one of the two compliance options from the local rule, then the SCAQMD must revise the Permits to include both compliance options.

The EPA denied the petition because the Petitioners failed to demonstrate that the recently amended version of SCAQMD Rule 1134 is an applicable requirement as defined in 40 CFR 70.2. The Order provides additional information, including the EPA's detailed basis for denying the petition.

Dated: July 8, 2021.

**Elizabeth Adams,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2021–15842 Filed 7–23–21; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1186; FR ID 39557]

### Information Collection Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction

Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.” The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments and recommendations for the proposed information collection should be submitted on or before August 25, 2021.

**ADDRESSES:** Comments should be sent to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into [www.reginfo.gov](http://www.reginfo.gov) per the above instructions for it to be considered. In addition to submitting in [www.reginfo.gov](http://www.reginfo.gov) also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Nicole.Ongele@fcc.gov](mailto:Nicole.Ongele@fcc.gov). Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

*OMB Control Number:* 3060–1186.  
*Title:* Rural Call Completion, WC Docket No. 13–39.

*Form Number:* N/A.  
*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents and Responses:* 56 respondents; 56 responses.

*Estimated Time per Response:* 1 hour.

*Frequency of Response:* Third-party disclosure requirement.

*Obligation to Respond:* Mandatory. Statutory authority for this collection is contained in sections 201, 202, 217, 218, 220(a), 251(a), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 201, 202, 217, 218, 220(a), 251(a), 403.

*Total Annual Burden:* 56 hours.

*Total Annual Cost:* No Cost.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission’s rules.

*Needs and Uses:* The Commission has found that rural call completion is a continuing problem imposing needless economic and personal costs on local communities, and that continued

Commission focus on the issue is warranted. The rural call completion contact information will be used to facilitate industry collaboration to address call completion issues.

Federal Communications Commission.

**Cecilia Sigmund,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2021–15797 Filed 7–23–21; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**TIME AND DATE:** Thursday, July 29, 2021 at 10:00 a.m.

**PLACE:** Virtual meeting. *Note:* Because of the COVID–19 pandemic, we will conduct the open meeting virtually. If you would like to access the meeting, see the instructions below.

**STATUS:** This meeting will be open to the public. To access the virtual meeting, go to the commission’s website [www.fec.gov](http://www.fec.gov) and click on the banner to be taken to the meeting page.

#### **MATTERS TO BE CONSIDERED:**

Draft Advisory Opinion 2021–07: PAC Management Services LLC (“PACMS”)

Draft Advisory Opinion 2021–08:

Congressman Scott Fitzgerald REG 2021–02 (Subvendor Reporting)—

Draft Notification of Availability Management and Administrative Matters

#### **CONTACT PERSON FOR MORE INFORMATION:**

Judith Ingram, Press Officer. Telephone: (202) 694–1220.

*Authority:* Government in the Sunshine Act, 5 U.S.C. 552b.

**Laura E. Sinram,**

*Acting Secretary and Clerk of the Commission.*

[FR Doc. 2021–15910 Filed 7–22–21; 11:15 am]

**BILLING CODE 6715–01–P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board’s Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as

other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than August 10, 2021.

A. *Federal Reserve Bank of San Francisco* (Sebastian Astrada, Director, Applications) 101 Market Street, San Francisco, California 94105-1579:

1. *The Vanguard Group, Inc., Malvern, Pennsylvania; on behalf of itself, its subsidiaries and affiliates, including investment companies registered under the Investment Company Act of 1940, other pooled investment vehicles, and institutional accounts that are sponsored, managed, or advised by Vanguard;* to acquire additional voting shares of Green Dot Corporation, Pasadena, California, and thereby indirectly acquire voting shares of Green Dot Bank, Provo, Utah.

2. *The Vanguard Group, Inc., Malvern, Pennsylvania; on behalf of itself, its subsidiaries and affiliates, including investment companies registered under the Investment Company Act of 1940, other pooled investment vehicles, and institutional accounts that are sponsored, managed, or advised by Vanguard;* to acquire additional voting shares of Columbia Banking System, Inc., and thereby indirectly acquire voting shares of Columbia Bank, both of Tacoma, Washington.

Board of Governors of the Federal Reserve System, July 21, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021-15892 Filed 7-23-21; 8:45 am]

**BILLING CODE P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval,

pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than August 25, 2021.

A. *Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Nicolet Bankshares, Inc., Green Bay, Wisconsin;* to merge with County Bancorp Inc., and thereby indirectly acquire Investors Community Bank, both of Manitowoc, Wisconsin.

Board of Governors of the Federal Reserve System, July 21, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021-15893 Filed 7-23-21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[30Day-21-21DI]

### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC)

has submitted the information collection request titled CryptoNet Case Report Form to the Office of Management and Budget (OMB) for review and approval. CDC previously published a "Proposed Data Collection Submitted for Public Comment and Recommendations" notice on March 8, 2021 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570.

Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

### Proposed Project

CryptoNet Case Report Form—New—National Center for Emerging and

Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

*Cryptosporidium* are a genus of parasites that cause the diarrheal disease cryptosporidiosis. As part of *Cryptosporidium* case and outbreak investigations, it is common for state and local health departments to conduct comprehensive interviews with cases and contacts to identify how individuals became sick with cryptosporidiosis, to identify individuals who could have come into contact with an individual sick with cryptosporidiosis, and to identify strategies to control the disease spread. Since cryptosporidiosis can be transmitted through numerous modes, it can be challenging to identify how individuals could have become ill. As a result, comprehensive case report forms focused on a range of settings, activities, and potential modes of transmission are needed to guide prevention and control activities.

The CryptoNet case report form (CRF) was developed to meet the needs of CDC’s case surveillance experts and local officials. The CRF includes a set of data elements that can be used to identify exposure trends in outbreak- and non-outbreak-associated *Cryptosporidium* cases, to generate hypotheses about the source(s) of infection in clusters or outbreaks, and to identify strategies to prevent and control

*Cryptosporidium* cases, clusters, or outbreaks. CryptoNet is meant to supplement existing cryptosporidiosis case surveillance data reported through the National Notifiable Diseases Surveillance System (NNDSS) (OMB No. 0920–0728, Exp. 3/31/2024). Current cryptosporidiosis case surveillance through NNDSS lacks information on key exposures proposed to be captured by CryptoNet. Notably, information proposed to be collected as part of CryptoNet serves as the foundation for the recently developed foodborne and diarrheal diseases message mapping guide—cryptosporidiosis tab (FDD MMG). The FDD MMG is the latest revision to NNDSS that aims to increase the amount of exposure data collected on each cryptosporidiosis case. Upon nationwide implementation of the FDD MMG, NCEZID anticipates that the CryptoNet Case Report form will be retired.

Administration of the CRF is to conduct surveillance on exposures associated with *Cryptosporidium* cases to better inform prevention and control strategies for these infections. There are no research questions addressed. Standardized data will be compiled on recent exposures related to cryptosporidiosis with the intention to inform disease prevention and control activities and will not be used to inform generalizable knowledge. CDC’s CryptoNet staff and the Case

Surveillance node in CDC’s Waterborne Disease Prevention Branch (WDPB) will oversee data collection, data management, and analyses and dissemination of data collected with the CRF during cryptosporidiosis investigations. The data collected from the CRF will be used to inform exposure trends among cases, clusters, or outbreaks with the intention to identify and implement prevention and control strategies and recommendations.

The CRF data elements and form were designed for administration via telephone interview with cases of cryptosporidiosis or their proxies. This method was chosen to reduce the overall burden on respondents because it allows for the assessment team to ask for clarification from participants during the interview, and this limits the need for additional follow-up. The data collection instrument was designed to collect the minimum information necessary for the purposes of this project.

Based on the annual number of laboratory specimens collected by the *Cryptosporidium* laboratory at CDC, it is expected that an average of 500 CryptoNet CRFs will be collected each year. OMB approval is requested for three years. Participation is voluntary and there are no costs to respondents other than their time. The total estimated annualized burden is 125 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Individuals ill with Cryptosporidiosis, or their designated proxy.	CryptoNet Case Report Form .....	500	1	15/60

Jeffrey M. Zirger,  
Lead, Information Collection Review Office,  
Office of Scientific Integrity, Office of Science,  
Centers for Disease Control and Prevention.  
[FR Doc. 2021–15790 Filed 7–23–21; 8:45 am]  
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention  
[30Day–21–1169]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for

Disease Control and Prevention (CDC) has submitted the information collection request titled “Development of CDC’s Let’s Stop HIV Together Social Marketing Campaign for Consumers” to the Office of Management and budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on March 12, 2021 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project.

The Office of Management and Budget is particularly interested in comments that:

- (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Enhance the quality, utility, and clarity of the information to be collected;
- (d) Minimize the burden of the collection of information on those who

are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570.

Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

#### Proposed Project

Development of CDC’s Let’s Stop HIV Together Social Marketing Campaign for Consumers—Reinstatement—National Center for HIV/AIDS, Viral Hepatitis,

STD and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

#### Background and Brief Description

To address the HIV epidemic in the U.S., the Department of Health and Human Services launched Ending the HIV Epidemic: A Plan for America, which is a cross-agency initiative aiming to reduce new HIV infections in the U.S. by 90% by 2030. CDC’s Let’s Stop HIV Together campaign (formerly known as Act Against AIDS) is part of the national Ending the HIV Epidemic initiative and includes resources aimed at reducing HIV stigma and promoting testing, prevention, and treatment across the HIV care continuum.

Within this context, CDC’s Division of HIV/AIDS Prevention (DHAP) has and will continue implementing various communication initiatives to increase HIV awareness among the general public, reduce new HIV infections among disproportionately impacted populations, and improve health outcomes for people living with HIV/AIDS in the US and its territories. Specifically, the campaigns target consumers aged 18 to 64 years old and includes the following audiences: (1) General public; (2) Men who have sex with men; (3) Blacks/African Americans; (4) Hispanics/Latinos; (5) Transgender individuals; (6) people

who inject drugs; and (7) people with HIV (PWH).

The rounds of data collection include exploratory, message testing, concept testing, and materials testing. Information collected by DHAP will be used to assess consumers’ informational needs about HIV testing, prevention, and treatment and pre-test campaign related messages, concepts, and materials and evaluate the extent to which the communication initiatives are reaching the target audiences and providing them with trusted HIV-related information. Data collections will include in-depth interviews, focus groups, brief surveys, and intercept interviews.

The data gathered under this request will be summarized in reports prepared for CDC by its contractor, such as quarterly and annual reports and topline reports that summarize results from each data collection. It is possible that data from this project will be published in peer-reviewed manuscripts or presented at conferences; the manuscripts and conference presentations may appear on the internet.

The total estimated annualized burden hours are 1,856. Participation by respondents is voluntary, and there is no cost to participants other than their time.

#### ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Health care providers.	Study screener .....	2,165	1	2/60
	Exploratory—HIV Testing In-depth Interview .....	50	1	1
	Exploratory—HIV Prevention In-depth Interview .....	52	1	1
	Exploratory—HIV Communication and Awareness In-depth Interview ..	50	1	1
	Exploratory—HIV Prevention with Positives In-depth Interview .....	50	1	1
	Message Testing In-depth Interview .....	50	1	1
	Concept Testing In-depth Interview .....	50	1	1
	Materials Testing In-depth Interview .....	50	1	1
	Exploratory—HIV Testing Focus Group .....	74	1	2
	Exploratory—HIV Prevention Focus Group .....	74	1	2
	Exploratory—HIV Communication and Awareness Focus Group .....	74	1	2
	Exploratory—HIV Prevention with Positives Focus Group .....	74	1	2
	Concept Testing Focus Group .....	68	1	2
	Message Testing Focus Group .....	68	1	2
	Materials Testing Focus Group .....	68	1	2
	HIV Testing Survey .....	213	1	15/60
	HIV Prevention Survey .....	213	1	15/60
	HIV Communication and Awareness Survey .....	213	1	15/60
	HIV Prevention with Positives Survey .....	213	1	15/60
	Intercept Interview .....	657	1	20/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office,  
Office of Scientific Integrity, Office of Science,  
Centers for Disease Control and Prevention.

[FR Doc. 2021-15792 Filed 7-23-21; 8:45 am]

BILLING CODE 4163-18-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day-21-0800; Docket No. CDC-2021-  
0072]

#### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and  
Prevention (CDC), Department of Health  
and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease  
Control and Prevention (CDC), as part of  
its continuing effort to reduce public  
burden and maximize the utility of  
government information, invites the  
general public and other Federal  
agencies the opportunity to comment on  
a proposed and/or continuing  
information collection, as required by  
the Paperwork Reduction Act of 1995.  
This notice invites comment on a  
proposed information collection project  
titled Focus Group Testing to Effectively  
Plan and Tailor Cancer Prevention and  
Control Communication Campaigns.  
CDC is requesting a Revision to this  
Generic Clearance to include an  
additional cancer-related  
communications campaign, expand the  
modes of data collection to include  
online focus groups and in-depth  
interviews (in-person, phone, and  
online), and to focus on respondents  
from the general public.

**DATES:** CDC must receive written  
comments on or before September 24,  
2021.

**ADDRESSES:** You may submit comments,  
identified by Docket No. CDC-2021-  
0072 by any of the following methods:

- *Federal eRulemaking Portal:*  
*Regulations.gov.* Follow the instructions  
for submitting comments.

- *Mail:* Jeffrey M. Zirger, Information  
Collection Review Office, Centers for  
Disease Control and Prevention, 1600  
Clifton Road NE, MS-D74, Atlanta,  
Georgia 30329.

*Instructions:* All submissions received  
must include the agency name and  
Docket Number. CDC will post, without  
change, all relevant comments to  
*Regulations.gov.*

*Please note:* Submit all comments  
through the Federal eRulemaking portal  
(*regulations.gov*) or by U.S. mail to the  
address listed above.

**FOR FURTHER INFORMATION CONTACT:** To  
request more information on the  
proposed project or to obtain a copy of  
the information collection plan and  
instruments, contact Jeffrey M. Zirger,  
Information Collection Review Office,  
Centers for Disease Control and  
Prevention, 1600 Clifton Road NE, MS-  
D74, Atlanta, Georgia 30329; phone:  
404-639-7570; Email: *omb@cdc.gov*.

**SUPPLEMENTARY INFORMATION:** Under the  
Paperwork Reduction Act of 1995 (PRA)  
(44 U.S.C. 3501-3520), Federal agencies  
must obtain approval from the Office of  
Management and Budget (OMB) for each  
collection of information they conduct  
or sponsor. In addition, the PRA also  
requires Federal agencies to provide a  
60-day notice in the **Federal Register**  
concerning each proposed collection of  
information, including each new  
proposed collection, each proposed  
extension of existing collection of  
information, and each reinstatement of  
previously approved information  
collection before submitting the  
collection to the OMB for approval. To  
comply with this requirement, we are  
publishing this notice of a proposed  
data collection as described below.

The OMB is particularly interested in  
comments that will help:

1. Evaluate whether the proposed  
collection of information is necessary  
for the proper performance of the  
functions of the agency, including  
whether the information will have  
practical utility;
2. Evaluate the accuracy of the  
agency's estimate of the burden of the  
proposed collection of information,  
including the validity of the  
methodology and assumptions used;
3. Enhance the quality, utility, and  
clarity of the information to be  
collected;
4. Minimize the burden of the  
collection of information on those who  
are to respond, including through the  
use of appropriate automated,  
electronic, mechanical, or other  
technological collection techniques or  
other forms of information technology,  
*e.g.*, permitting electronic submissions  
of responses; and
5. Assess information collection costs.

#### Proposed Project

Focus Group Testing to Effectively  
Plan and Tailor Cancer Prevention and  
Control Communications Campaigns—  
(OMB Control No. 0920-0800, Exp. 10/  
31/2021)—Revision—National Center  
for Chronic Disease Prevention and

Health Promotion (NCCDPHP), Centers  
for Disease Control and Prevention  
(CDC).

#### Background and Brief Description

The mission of the CDC's Division of  
Cancer Prevention and Control (DCPC)  
is to reduce the burden of cancer in the  
United States through cancer  
prevention, reduction of risk, early  
detection, and improved quality of life  
for cancer survivors. Toward this end,  
the DCPC supports the scientific  
development and implementation of  
various health communication  
campaigns with an emphasis on specific  
cancer burdens.

This process requires testing of  
messages, concepts, and materials prior  
to their final development and  
dissemination, as described in the  
second step of the health  
communication process. The health  
communication process is a scientific  
model developed by the U.S.  
Department of Health and Human  
Services' National Cancer Institute to  
guide sound campaign development.  
The communication literature supports  
various data collection methods to  
conduct credible formative, concept,  
message, and materials testing. This  
process ensures that the public clearly  
understands cancer-specific information  
and concepts, are motivated to take the  
desired action, and do not react  
negatively to the messages. CDC is  
currently approved to collect  
information needed to plan and tailor  
cancer communication campaigns (OMB  
Control No. 0920-0800, Exp. 10/31/  
2021), and seeks OMB approval to  
revise the existing generic clearance to  
include another cancer-related  
communications campaign, expand the  
modes of data collection to include  
online focus groups and in-depth  
interviews (in-person, phone, and  
online), and to focus on respondents  
from the general public.

Information collection will involve  
discussions to assess numerous  
qualitative dimensions of cancer  
prevention and control messages  
including, but not limited to, cancer  
knowledge, attitudes, beliefs, behavioral  
intentions, information needs and  
sources, and compliance with cancer  
screening as recommended by the  
United States Preventive Services Task  
Force. Insights gained from these  
discussions will assist in the  
development and/or refinement of  
future campaign messages and  
materials. Communication campaigns  
and messages will vary according to the  
type of cancer and the qualitative  
dimensions of the message described  
above. A separate information collection

request will be submitted to OMB for approval of each discussion activity. The request will describe the purpose of the activity and include the customized information collection instruments.

OMB approval is requested for three years. There is no change in burden hours or respondents. Participation is voluntary and there are no costs to respondents except their time. CDC

requests approval for an estimated 1,680 annual burden hours.

#### ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
General Public .....	Screening Form .....	1600	1	3/60	80
General Public .....	Discussion Guide .....	800	1	2	1,600
Total .....	.....	.....	.....	.....	1,680

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021-15795 Filed 7-23-21; 8:45 am]

**BILLING CODE 4163-18-P**

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Centers for Disease Control and Prevention

##### Mine Safety and Health Research Advisory Committee (MSHRAC); Cancellation of Meeting

Notice is hereby given of a change in the meeting of the Mine Safety and Health Research Advisory Committee (MSHRAC); June 21, 2021, 10:00 a.m.—2:30 p.m., EDT, in the original FRN.

The meeting was published in the **Federal Register** on April 23, 2021, Volume 86, Number 77, page 21739.

This meeting is being canceled in its entirety.

##### FOR FURTHER INFORMATION CONTACT:

George W. Luxbacher, Designated Federal Officer, MSHRAC, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 2400 Century Parkway NE, Atlanta, GA 30345; Telephone: (404) 498-2808; email: [gluxbacher@cdc.gov](mailto:gluxbacher@cdc.gov).

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2021-15800 Filed 7-23-21; 8:45 am]

**BILLING CODE 4163-18-P**

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Centers for Disease Control and Prevention

[30Day-21-0556]

##### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Assisted Reproductive Technology (ART) Program Reporting System” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on March 12, 2021 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

##### Proposed Project

Assisted Reproductive Technology (ART) Program Reporting System (OMB Control No. 0920-0556, Exp. 8/31/2021)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 2(a) of Public Law 102–493 (known as the Fertility Clinic Success Rate and Certification Act of 1992 (FCSRCA), 42 U.S.C. 263a–1(a)) requires that each assisted reproductive technology (ART) program shall annually report to the Secretary through the Centers for Disease Control and Prevention: (1) Pregnancy success rates achieved by such ART program, and (2) the identity of each embryo laboratory used by such ART program, and whether the laboratory is certified or has applied for such certification under the Act. The required information is currently reported by ART programs to CDC as specified in the Assisted Reproductive Technology (ART)

Program Reporting System (OMB Control No. 0920–0556, Exp. 8/31/2021). CDC seeks to continue OMB approval for a period of three years. The revised total burden estimate is higher than the previous approval, due to an increase in the utilization of ART in the United States.

The estimated number of respondents (ART programs or clinics) is 456, based on the number of clinics that provided information in 2018; the estimated average number of responses (ART cycles) per respondent is 670. Additionally, approximately 5–10% of responding clinics will be randomly selected each year to participate in data validation and quality control activities; an estimated 35 clinics will be selected to report validation data on 70 cycles

each on average. Finally, respondents may provide feedback to CDC about the usability and utility of the reporting system. The option to participate in the feedback survey is presented to respondents when they complete their required data submission. Participation in the feedback survey is voluntary and is not required by the FCSRCA. CDC estimates that 50% of ART programs will participate in the feedback survey.

The collection of ART cycle information allows CDC to publish an annual report to Congress as specified by the FCSRCA and to provide information needed by consumers. OMB approval is requested for three years and there are no costs to respondents other than their time. The total estimated annualized burden is 219,904 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
ART Clinics .....	NASS Reporting Form .....	456	670	43/60
	Data Validation .....	35	70	23/60
	Feedback Survey .....	255	1	2/60

Jeffrey M. Zirger,  
*Lead, Information Collection Review Office,  
Office of Scientific Integrity, Office of Science,  
Centers for Disease Control and Prevention.*  
[FR Doc. 2021–15791 Filed 7–23–21; 8:45 am]  
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention  
[30Day–21–1238]  
Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “US Tuberculosis Follow-Up Worksheet for Newly-Arrived Persons with Overseas Tuberculosis Classifications,” also commonly known as a “TB Follow-Up Worksheet” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on 03/09/2021 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to

allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the

proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

The US Tuberculosis Follow-Up Worksheet for Newly-Arrived Persons with Overseas Tuberculosis Classifications (OMB Control No. 0920–1238, Exp. 06/30/2021)—Reinstatement with Change—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Global Migration and Quarantine (DGMQ) collaborated with the Division of TB Elimination (DTBE) to revise the proposed worksheet to capture follow-up medical examination information after a person with tuberculosis classification has arrived in

the US. The overseas medical examination determines whether the applicant has an inadmissible condition of public health significance (a Class A condition) or has a health-related condition that is admissible, but might require extensive medical treatment or follow-up (a Class B condition), such as treated tuberculosis. Applicants with Class A (inadmissible) conditions can only enter the United States if they are granted a waiver. Applicants who have Class A conditions include those who; (1) Have a communicable disease of public health significance, (2) do not have documentation of having received vaccinations against vaccine-preventable diseases, (3) have a physical or mental disorder with associated harmful behavior, or (4) abuse, or are addicted to drugs (42 U.S.C. 252, 8 U.S.C. 1182, and 8 U.S.C. 1222 provide for the physical and mental examination of applicants in accordance with regulations prescribed by the HHS Secretary). CDC highly recommends that persons with overseas class A or B tuberculosis receive domestic follow-up medical examination information to prevent new transmission of tuberculosis. This is the primary rationale for collecting domestic tuberculosis follow-up information.

The US foreign-born population continuously had the highest incidence of tuberculosis compared to the US non-foreign-born population. According to CDC, the 2019 TB case rate was 14.2 per 100,000 for foreign-born persons compared to 0.9 per 100,000 for US-born persons. The proportion of TB cases occurring in the foreign-born population was found to be approximately 70.9% of the national case total. CDC strongly recommends US-bound immigrants and refugees with class A or B tuberculosis to receive follow-up examinations for tuberculosis in the US.

The purpose of this data collection is to methodically gather tuberculosis follow-up outcome data to monitor and track US-bound persons with overseas class A and B tuberculosis to assist in the national effort to prevent new transmission of tuberculosis. To accurately determine recent US arrivals receiving domestic follow-up medical examinations, US health departments

will provide domestic follow-up outcome information to CDC by completing The EDN Tuberculosis Follow-Up Worksheet for Newly-Arrived Persons with Overseas Tuberculosis Classifications, also commonly known as the TB Follow-Up Worksheet. Without this data, DGMQ will not have a method of tracking and monitoring newly-arrived persons with overseas class A or B tuberculosis. DGMQ will use information reported on the TB Follow-Up Worksheet to ensure that tuberculosis programs are effectively tracking newly-arrived persons and coordinating follow-up medical examinations with state and local clinicians in the US.

Since the previous approval of the "US Tuberculosis Follow-Up Worksheet for Newly-Arrived Persons with Overseas Tuberculosis Classifications" data collection instrument in 2018, there have been changes made in the data collection instrument to clarify wording, add additional options for respondents to select, and enhance data collection quality. There are also clarifications made in the "Purpose and Use of Information Collection" in Supporting Statement A to further clarify information what the data collection instrument collects. In the "Respondent Universe and Sampling Methods" section of Supporting Statement B, there are clarifications made to explain how respondents gain access to and use the Electronic Disease Notification (EDN) system and the data collection instrument. There is an increase from 550 respondents to 1548 respondents due to the increase in the number of individuals throughout the United States requesting access to the EDN system to access medical records for U.S. arrivals, and complete the EDN Tuberculosis Follow-Up Worksheet for Newly-Arrived Persons with Overseas Tuberculosis Classifications for U.S. arrivals with TB classifications. There is no change to the burden per respondent to complete a follow-up form.

Several indicators will be calculated to measure domestic tuberculosis program performance, including the percentage of aliens with class B tuberculosis with complete US medical examinations. This program performance monitoring activity will be

ongoing throughout the year. State and local health departments will voluntarily report evaluation outcome findings on a continuous basis once evaluation results for an individual becomes available.

Data collected by DGMQ will be used to help evaluate the efficacy and efficiency of overseas tuberculosis diagnoses, treatments, and prevention activities along with panel physician performance. Currently, DGMQ does not have an effective method of determining the accuracy of chest x-rays read overseas and the aptness of overseas treatment for tuberculosis. This data will provide DGMQ with a method of evaluating panel physician performance and overseas treatment and prevention activities. The proposed TB Follow-Up Worksheet contains sections that allow US physicians to review overseas chest x-rays and treatment and indicate any concerns or errors. A negative consequence of not collecting this information is that DGMQ will not be able to efficiently analyze data to determine which panel physicians have the most inaccuracies. Plans for formal evaluations of US panel physicians are contingent upon the approval of the TB Follow-Up Worksheet.

If technical instructions for tuberculosis diagnosis and treatment are followed properly overseas, persons with overseas classification B tuberculosis should not have tuberculosis disease during their US follow-up examinations. The form will help DGMQ understand what factors may contribute to a domestic diagnosis of tuberculosis. The TB Follow-up Worksheet contains a section that collects patient diagnoses and treatment recommendations. Without this information, DGMQ staff will not be able to accurately identify and resolve factors that contribute to tuberculosis disease. This form of monitoring is ongoing and will occur with every instance an alien is diagnosed with tuberculosis disease during follow-up examinations.

There are no costs to the respondents other than their time. The total estimated annual burden are 2,322 hours.

## ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
EDN data entry staff at state and local health departments.	US Tuberculosis Follow-up Worksheet for Newly-Arrived Persons with Overseas Tuberculosis Classifications.	1,548	3	30/60

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office,  
Office of Scientific Integrity, Office of Science,  
Centers for Disease Control and Prevention.*

[FR Doc. 2021-15793 Filed 7-23-21; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### National Center for Health Statistics (NCHS), ICD-10 Coordination and Maintenance (C&M) Committee Meeting

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of meeting.

**SUMMARY:** The CDC, National Center for Health Statistics (NCHS), Classifications and Public Health Data Standards Staff, announces the following meeting of the ICD-10 Coordination and Maintenance (C&M) Committee meeting. This meeting is open to the public, limited only by audio. Online Registration is not required.

**DATES:** The meeting will be held on September 14, 2021, from 9:00 a.m. to 5:00 p.m., EDT, and September 15, 2021, from 9:00 a.m. to 5:00 p.m., EDT.

**ADDRESSES:** This is a virtual meeting. Information will be provided on each of our respective web pages when it becomes available. For CDC/NCHS [https://www.cdc.gov/nchs/icd/icd10cm\\_maintenance.htm](https://www.cdc.gov/nchs/icd/icd10cm_maintenance.htm). For CMS <https://www.cms.gov/Medicare/Coding/ICD9ProviderDiagnosticCodes/meetings>.

#### FOR FURTHER INFORMATION CONTACT:

Traci Ramirez, Medical Systems Specialist, CDC, 3311 Toledo Road, Hyattsville, Maryland 20782; Telephone: (301) 458-4454; Email: [TRamirez@cdc.gov](mailto:TRamirez@cdc.gov).

#### SUPPLEMENTARY INFORMATION:

**Purpose:** The ICD-10 Coordination and Maintenance (C&M) Committee is a public forum for the presentation of proposed modifications to the International Classification of Diseases,

Tenth Revision, Clinical Modification and ICD-10 Procedure Coding System.

**Matters To Be Considered:** The tentative agenda will include discussions on ICD-10-CM and ICD-10-PCS topics listed below. Agenda items are subject to change as priorities dictate.

Please refer to the posted agenda for updates one month prior to the meeting.

#### ICD-10-PCS Topics

1. Administration of fostamatinib(1), (2)
2. Administration of betibeglogene autotemcel (beti-cel)(1)
3. Administration of RBX2660(1)
4. Pressure-controlled Intermittent Coronary Sinus Occlusion
5. Measurement of Exhaled Nitric Oxide (FeNo)
6. Histotripsy of Liver
7. Replacement of Meniscus with Synthetic Substitute (1)
8. Section X Updates
9. Addenda and Key Updates

(1) Applicant intends to submit a New Technology Add-on Payment (NTAP) application for FY 2023.

(2) Request is for an April 1, 2022 implementation date.

Presentations for procedure code requests are conducted by both the requestor and CMS during the Coordination & Maintenance Committee meeting. Discussion from the requestor generally focuses on the clinical issues for the procedure or technology, followed by the proposed coding options from a CMS analyst. Topics presented may also include requests for new procedure codes that relate to a new technology add-on payment (NTAP) policy request.

CMS is continuing to modify the approach for presenting the new technology add-on payment (NTAP) related ICD-10-PCS procedure code requests that involve the administration of a therapeutic agent. Consistent with the requirements of section 1886(d)(5)(K)(iii) of the Social Security Act, applicants submitted requests to create a unique procedure code to describe the administration of a therapeutic agent, such as the option to create a new code in Section X within the ICD-10-PCS procedure code

classification. CMS will initially only display those meeting materials associated with the NTAP related ICD-10-PCS procedure code requests that involve the administration of a therapeutic agent on the CMS website in early August 2021 at: <https://www.cms.gov/Medicare/Coding/ICD10/C-and-M-Meeting-Materials>.

The three NTAP related ICD-10-PCS procedure code requests that involve the administration of a therapeutic agent are:

1. Administration of fostamatinib
2. Administration of betibeglogene autotemcel (beti-cel)
3. Administration of RBX2660

These topics will not be presented during the September 14-15, 2021 meeting. CMS will solicit public comments regarding any clinical questions or coding options included for these three procedure code topics in advance of the meeting continuing through the end of the public comment period. The deadline to submit comments for topics being considered for April 1, 2022 implementation is October 15, 2021 and the deadline to submit comments for topics being considered for an October 1, 2022 implementation is November 15, 2021. Members of the public should send any questions or comments to the CMS mailbox at: [ICDProcedureCodeRequest@cms.hhs.gov](mailto:ICDProcedureCodeRequest@cms.hhs.gov) by the designated deadline dates mentioned above.

CMS intends to post a question and answer document in advance of the meeting to address any clinical or coding questions that members of the public may have submitted. Following the conclusion of the meeting, CMS will post an updated question and answer document to address any additional clinical or coding questions that members of the public may have submitted during the meeting that CMS was not able to address or that were submitted after the meeting.

The NTAP related ICD-10-PCS procedure code requests that do not involve the administration of a therapeutic agent and all non-NTAP related procedure code requests will continue to be presented during the virtual meeting on September 14, 2021

consistent with the standard meeting process.

CMS will make all meeting materials and related documents available at: <https://www.cms.gov/Medicare/Coding/ICD10/C-and-M-Meeting-Materials>. Any inquiries related to the procedure code topics scheduled for the September 14, 2021 ICD–10 Coordination and Maintenance Committee meeting that are under consideration for April 1, 2022 or October 1, 2022 implementation should be sent to the CMS mailbox at: [ICDProcedureCodeRequest@cms.hhs.gov](mailto:ICDProcedureCodeRequest@cms.hhs.gov).

#### ICD–10–CM Topics

1. Apnea of Newborn and Related Issues
2. Atrial Septal Defect
3. Craniosynostosis
4. Dementia
5. Encounter for follow-up examination after completed treatment for malignant neoplasm
6. Endometriosis
7. Intracranial Injury with Unknown LOC
8. Long-term (current) drug therapy
9. Primary Blast Injury
10. Problems Related to Upbringing
11. Short Stature Due to Endocrine Disorder
12. Addenda

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2021–15801 Filed 7–23–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day–21–1046; Docket No. CDC–2021–0074]

#### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Breast and Cervical Cancer Early Detection Program (NBCCEDP) Monitoring Activities. Proposed study is designed to collect information about implementation, including delivery of screening and follow-up clinical services, and outcomes of the NBCCEDP.

**DATES:** CDC must receive written comments on or before September 24, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2021–0074 by any of the following methods:

- *Federal eRulemaking Portal:* [Regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

*Please note:* Submit all comments through the Federal eRulemaking portal ([regulations.gov](https://www.regulations.gov)) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: [omb@cdc.gov](mailto:omb@cdc.gov).

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information

collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and

5. Assess information collection costs.

#### Proposed Project

National Breast and Cervical Cancer Early Detection Program (NBCCEDP) Monitoring Activities—(OMB Control No. 0920–1046, Exp. 11/30/2021)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

#### Background and Brief Description

CDC is requesting a Revision of the information collection with the OMB Control Number 0920–1046, titled “National Breast and Cervical Cancer Early Detection Program (NBCCEDP) Monitoring Activities.” In the previous OMB approval period, information collection consisted of an annual NBCCEDP survey and clinic-level data collection. In the next OMB approval period, information collection will consist of a revised NBCCEDP survey, revised clinic-level data collection, new quarterly program update, new service delivery projection worksheet, and the addition of previously approved minimum data elements (MDEs; OMB Control No. 0920–0571, Exp. 11/30/2021) to increase efficiency. The number of respondents will remain the same and the total estimated annualized burden will increase from 683 to 1,216.

Breast and cervical cancers are prevalent among U.S. women. In 2017, the U.S. experienced 250,520 new cases and 42,000 deaths as a result of breast

cancer, as well as 12,831 new cases and 4,207 deaths as a result of cervical cancer. Evidence shows that deaths from both breast and cervical cancers can be avoided by increasing screening services—mammography and PAP tests—among women. However, screening is typically underutilized among women who are under- or uninsured, have no regular source of healthcare, or who recently immigrated to the U.S. As a longstanding priority within chronic disease prevention, CDC focuses on increasing access to these cancer screenings, particularly among women who may be at increased risk.

To improve access to cancer screening, Congress passed the Breast and Cervical Cancer Mortality Prevention Act of 1990 (Pub. L. 106–354), which directed CDC to create the National Breast and Cervical Cancer Early Detection Program (NBCCEDP). The NBCCEDP currently provides funding to 70 awardees under “Cancer Prevention and Control Programs for State, Territorial, and Tribal Organizations (DP17–1701).” NBCCEDP awardees include states or their bona fide agents; U.S. territories; and tribes or tribal organizations. The purpose of NBCCEDP is to increase breast and cervical cancer screening rates among women residing within defined geographical locations (as determined by the funded program) who are at or below 250% of the federal poverty level; aged 40–64 years for breast cancer services, and aged 21–64 years for cervical cancer services; and under- or uninsured.

In 2022, CDC will issue a new Notice of Funding Opportunity (DP22–2202) to continue this mission. Consistent with programmatic changes, the information collection plan has also been redesigned to update existing, and add new data collection instruments, and to integrate the previously approved MDEs into this single approval package to increase efficiency of information collection for the NBCCEDP. This revised information collection will allow CDC to provide routine monitoring feedback to awardees based on their data submissions, tailor technical assistance (TA) as needed, support program planning, and assess program outcomes.

CDC proposes five forms of information collection. First, the NBCCEDP survey will be submitted to CDC annually and collects information to monitor awardees’ TA needs, external funding sources, partnerships, EBI implementation, and COVID–19 impact. Minor revisions to survey questions and formatting reflect the program under DP22–2202. Second, clinic-level data will be submitted to CDC at baseline and annually for all partnering health system clinic sites—an estimated six clinics per awardee for breast cancer data and six clinics per awardee for cervical cancer data. Clinic-level data allow CDC to assess health system, clinic, and patient population characteristics; monitoring and quality improvement activities; EBI implementation; and baseline or annual screening rates. Minor revisions were made to variable wording, formatting (e.g., split or combined variables), and

response options to improve data quality. Third, quarterly program updates will be submitted to CDC four times per year to monitor award spending, service delivery, staff vacancies, program challenges and successes, and TA needs. This is a new information collection. Fourth, the service delivery projection worksheet will be submitted to CDC annually to provide an estimate of the number of women served for breast and cervical cancer. Fifth, the minimum data elements (MDEs) will be submitted to CDC twice per year to monitor patient demographics; breast and cervical cancer screening, diagnosis, and treatment; timeliness of services; and patient navigation. This information collection was previously approved (OMB No. 0920–0571, exp. 03/30/2022) and incorporated into this approval package for increased efficiency for NBCCEDP information collection efforts.

The proposed information collections will allow CDC to gauge progress in meeting NBCCEDP program goals and monitor implementation activities, evaluate outcomes, and identify awardee TA needs. In addition, findings will inform program improvement and help identify successful activities that need to be maintained, replicated, or expanded.

OMB approval is requested for three years. CDC requests approval for an estimated 1,216 annual burden hours. Participation is required for NBCCEDP awardees. There are no costs to respondents other than their time.

#### ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
NBCCEDP Awardees .....	Annual NBCCEDP Survey .....	70	1	45/60	53
	NBCCEDP Clinic-level Information Collection Instrument—Breast.	70	6	45/60	315
	NBCCEDP Clinic-level Information Collection Instrument—Cervical.	70	6	45/60	315
	Quarterly Program Update .....	70	4	32/60	149
	Service Delivery Projection Worksheet .....	70	1	29/60	34
	MDEs .....	70	2	150/60	350
Total .....	.....	.....	.....	.....	1,216

Jeffrey M. Zirger,

Lead, Information Collection Review Office,  
Office of Scientific Integrity, Office of Science,  
Centers for Disease Control and Prevention.

[FR Doc. 2021-15796 Filed 7-23-21; 8:45 am]

BILLING CODE 4163-18-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day-21-0017; Docket No. CDC-2021-  
0073]

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and  
Prevention (CDC), Department of Health  
and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease  
Control and Prevention (CDC), as part of  
its continuing effort to reduce public  
burden and maximize the utility of  
government information, invites the  
general public and other Federal  
agencies the opportunity to comment on  
a proposed and/or continuing  
information collection, as required by  
the Paperwork Reduction Act of 1995.  
This notice invites comment on a  
proposed information collection project  
titled Application for Training, which  
supports the management and  
evaluation of online training and  
professional development opportunities  
for public health and health care  
professionals.

**DATES:** CDC must receive written  
comments on or before September 24,  
2021.

**ADDRESSES:** You may submit comments,  
identified by Docket No. CDC-2021-  
0073 by any of the following methods:

- *Federal eRulemaking Portal:*  
*Regulations.gov.* Follow the instructions  
for submitting comments.

- *Mail:* Jeffrey M. Zirger, Information  
Collection Review Office, Centers for  
Disease Control and Prevention, 1600  
Clifton Road NE, MS-D74, Atlanta,  
Georgia 30329.

*Instructions:* All submissions received  
must include the agency name and  
Docket Number. CDC will post, without  
change, all relevant comments to  
*Regulations.gov.*

*Please note: Submit all comments  
through the Federal eRulemaking portal  
(regulations.gov) or by U.S. mail to the  
address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To  
request more information on the

proposed project or to obtain a copy of  
the information collection plan and  
instruments, contact Jeffrey M. Zirger,  
Information Collection Review Office,  
Centers for Disease Control and  
Prevention, 1600 Clifton Road NE, MS-  
D74, Atlanta, Georgia 30329; phone:  
404-639-7570; Email: *omb@cdc.gov*.

**SUPPLEMENTARY INFORMATION:** Under the  
Paperwork Reduction Act of 1995 (PRA)  
(44 U.S.C. 3501-3520), Federal agencies  
must obtain approval from the Office of  
Management and Budget (OMB) for each  
collection of information they conduct  
or sponsor. In addition, the PRA also  
requires Federal agencies to provide a  
60-day notice in the **Federal Register**  
concerning each proposed collection of  
information, including each new  
proposed collection, each proposed  
extension of existing collection of  
information, and each reinstatement of  
previously approved information  
collection before submitting the  
collection to the OMB for approval. To  
comply with this requirement, we are  
publishing this notice of a proposed  
data collection as described below.

The OMB is particularly interested in  
comments that will help:

1. Evaluate whether the proposed  
collection of information is necessary  
for the proper performance of the  
functions of the agency, including  
whether the information will have  
practical utility;
2. Evaluate the accuracy of the  
agency's estimate of the burden of the  
proposed collection of information,  
including the validity of the  
methodology and assumptions used;
3. Enhance the quality, utility, and  
clarity of the information to be  
collected;
4. Minimize the burden of the  
collection of information on those who  
are to respond, including through the  
use of appropriate automated,  
electronic, mechanical, or other  
technological collection techniques or  
other forms of information technology,  
*e.g.*, permitting electronic submissions  
of responses; and
5. Assess information collection costs.

### Proposed Project

Application for Training (OMB  
Control No. 0920-0017, Exp. 04/30/  
2022)—Revision—Center for  
Surveillance, Epidemiology, and  
Laboratory Services (CELS), Centers for  
Disease Control and Prevention (CDC).

### Background and Brief Description

This Information Collection Request  
(ICR) is for the Revision of a currently  
approved ICR (OMB Control No. 0920-  
0017, Expiration 4/30/2022. Approval is  
requested for three years. The mission of

CDC's Division of Scientific Education  
and Professional Development (DSEPD)  
is to support the development of a  
competent, sustainable, and empowered  
public health workforce. Professionals  
in public health, epidemiology,  
medicine, economics, information  
science, veterinary medicine, nursing,  
public policy, and other related  
professions seek professional  
development opportunities (both  
accredited and nonaccredited) through  
two CDC learning management systems.  
These two learning management  
systems are Training and Continuing  
Education Online (TCEO) (for  
accredited courses) and CDC TRAIN (for  
nonaccredited courses developed by  
CDC programs, grantees, and other  
funded partners). Access to quality and  
accredited learning programs and  
products through these two systems  
allow for the public health workforce to  
broaden their knowledge and skills to  
improve the science and practice of  
public health for domestic and  
international impact.

The overarching purpose of the ICR is  
to continually improve CDC training  
activities, and maintain CDC  
compliance with mandatory  
accreditation organization standards by  
efficiently collecting information  
through CDC's Training and Continuing  
Education Online (TCEO) and CDC  
TRAIN systems, while navigating a  
future merger that moves to using a  
single system (CDC TRAIN).

This Revision requests to extend  
current approval of the TCEO forms,  
with one minor change, namely to add  
two new response options for one  
question on the TCEO New Participant  
Registration. This Revision also requests  
to add CDC TRAIN as a data collection  
system and add two CDC TRAIN  
standard training evaluation tools (one  
for use immediately after the course is  
taken, and one 3-6 months after the  
course is taken) that will be employed  
on the learning management system.  
This proposed change will provide CDC  
with an efficient, effective, and secure  
electronic mechanism for collecting,  
processing, and monitoring training-  
related information.

CDC will use information collected in  
both systems to evaluate and improve  
courses based on learner feedback. At  
this time, TCEO is also used to generate  
certificates of attendance and verify  
training completion, review and  
approve proposals for educational  
activities to receive continuing  
education accreditation, and ensure  
compliance with mandatory  
accreditation standards.

All data will be collected online,  
using secure electronic web-based

password protected platforms. Respondents will include educational developers requesting accreditation for their trainings and public health and healthcare professionals who seek training. No statistical methods will be used to analyze the information

collected. CDC will use identifiable information in TCEO to track participant completion of educational activities to facilitate required reporting to earn continuing education credits, hours, or units. Aggregate and non-aggregate data from the evaluations in

TCEO and CDC TRAIN will be used to improve educational activities and assess learning outcomes.

CDC requests approval for an estimated 412,600 annual burden hours. There are no costs to respondents other than their time.

#### ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden time per response (in hours)	Total Response Burden (in hours)
Educational Developers (Health Educators).	TCEO Proposal .....	120	1	5	600
Public Health and Health Care Professionals (Learners).	TCEO New Participant Registration	300,000	1	5/60	25,000
Public Health and Health Care Professionals (Learners).	TCEO Post-Course Evaluation .....	300,000	3	10/60	150,000
Public Health and Health Care Professionals (Learners).	TCEO Follow-Up Evaluation .....	30,000	3	3/60	4,500
TCEO Sub-Total .....	.....	.....	.....	.....	180,100
Public Health and Health Care Professionals (Learners).	CDC TRAIN Immediate Post-Course Evaluation Tool.	300,000	3	15/60	225,000
Public Health and Health Care Professionals (Learners).	CDC TRAIN Delayed Follow-Up Evaluation Tool.	30,000	3	5/60	7,500
0.33TRAIN Sub-Total .....	.....	.....	.....	.....	232,500
Total .....	.....	.....	.....	.....	412,600

Jeffrey M. Zirger,

Lead, Information Collection Review Office,  
Office of Scientific Integrity, Office of Science,  
Centers for Disease Control and Prevention.

[FR Doc. 2021-15794 Filed 7-23-21; 8:45 am]

BILLING CODE 4163-18-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[Docket No. CDC-2021-0075]

### Advisory Committee on Immunization Practices (ACIP)

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of meeting and request for comment.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC), announces the following meeting of the Advisory Committee on Immunization Practices (ACIP). This meeting is open to the public. Time will be available for public comment. The meeting will be webcast live via the World Wide Web. For more information on ACIP please visit the ACIP website: <http://www.cdc.gov/vaccines/acip/index.html>.

**DATES:** The meeting will be held on September 29, 2021, from 10:00 a.m. to 5:05 p.m., EDT, and September 30, 2021, from 10:00 a.m. to 1:10 p.m., EDT (times subject to change), see the ACIP website for updates: <http://www.cdc.gov/vaccines/acip/index.html>. The public may submit written comments from July 26, 2021 through September 30, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC-2021-0075 by any of the following methods:

- **Federal eRulemaking Portal:**

<https://www.regulations.gov>. Follow the instructions for submitting comments.

- **Mail:** Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H24-8, Atlanta, Georgia 30329-4027, Attn: ACIP Meeting.

**Instructions:** All submissions received must include the Agency name and Docket Number. All relevant comments received in conformance with the <https://www.regulations.gov> suitability policy will be posted without change to <https://www.regulations.gov>, including any personal information provided. For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>. Written public comments submitted 72 hours prior to the ACIP meeting will be provided to ACIP members before the meeting.

### FOR FURTHER INFORMATION CONTACT:

Stephanie Thomas, ACIP Committee Management Specialist, Centers for Disease Control and Prevention, National Center for Immunization and Respiratory Diseases, 1600 Clifton Road NE, MS-H24-8, Atlanta, Georgia 30329-4027; Telephone: (404) 639-8367; Email: [ACIP@cdc.gov](mailto:ACIP@cdc.gov).

### SUPPLEMENTARY INFORMATION:

**Purpose:** The committee is charged with advising the Director, CDC, on the use of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding dosing interval, dosage, and contraindications to administration of vaccines. Further, under provisions of the Affordable Care Act, section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been approved by the Director of the Centers for Disease Control and Prevention and appear on CDC immunization schedules must be covered by applicable health plans.

**Matters To Be Considered:** The agenda will include discussions on cholera vaccine, hepatitis vaccines, herpes zoster vaccines, orthopoxvirus vaccine, pneumococcal vaccine, and tickborne

encephalitis vaccine. No recommendation votes are scheduled. Agenda items are subject to change as priorities dictate. For more information on the meeting agenda visit <https://www.cdc.gov/vaccines/acip/meetings/meetings-info.html>.

**Meeting Information:** The meeting will be webcast live via the World Wide Web; for more information on ACIP please visit the ACIP website: <http://www.cdc.gov/vaccines/acip/index.html>.

### Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on <https://www.regulations.gov>. Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted into the docket.

**Written Public Comment:** The docket will be opened to receive written comments on September 1, 2021. Written comments must be received on or before September 30, 2021.

**Oral Public Comment:** This meeting will include time for members of the public to make an oral comment. Oral public comment will occur before any scheduled votes including all votes relevant to the ACIP's Affordable Care Act and Vaccines for Children Program roles. Priority will be given to individuals who submit a request to make an oral public comment before the meeting according to the procedures below.

**Procedure for Oral Public Comment:** All persons interested in making an oral public comment at the September 29–30, 2021, ACIP meeting must submit a request at <http://www.cdc.gov/vaccines/acip/meetings/> no later than 11:59 p.m., EDT, September 24, 2021, according to the instructions provided.

If the number of persons requesting to speak is greater than can be reasonably accommodated during the scheduled

time, CDC will conduct a lottery to determine the speakers for the scheduled public comment session. CDC staff will notify individuals regarding their request to speak by email September 28, 2021. To accommodate the significant interest in participation in the oral public comment session of ACIP meetings, each speaker will be limited to 3 minutes, and each speaker may only speak once per meeting.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2021–15799 Filed 7–23–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2021–N–0651]

#### Cellular, Tissue and Gene Therapies Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; establishment of public docket; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) announces a forthcoming public advisory committee meeting of the Cellular, Tissue and Gene Therapies Advisory Committee (CTGTAC). The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. Matters considered at the meeting will include discussion of the toxicity risks of adeno-associated virus (AAV) vector-based gene therapy products. The discussion topics include oncogenicity risks due to vector genome integration and safety issues identified during preclinical and/or clinical evaluation. The meeting will be open to the public on both days. FDA is establishing a docket for public comment on this document.

**DATES:** The meeting will be held on September 2 and 3, 2021, from 10 a.m. to 6 p.m. Eastern Time.

**ADDRESSES:** Please note that due to the impact of the COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: <https://www.fda.gov/advisory-committees/about-advisory-committees/common-questions-and-answers-about-fda-advisory-committee-meetings>. The online web conference meeting will be available at the following links on the day of the meeting: Day 1 [https://youtu.be/58KjL9\\_p9Tw](https://youtu.be/58KjL9_p9Tw) and Day 2 <https://youtu.be/yLggQF0XUUY>.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2021–N–0651. The docket will close on September 1, 2021. Submit either electronic or written comments on this public meeting on or before September 1, 2021. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 1, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before August 26, 2021, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

#### Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact

information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

*Instructions:* All submissions received must include the Docket No. FDA-2021-N-0651 for “Cellular, Tissue and Gene Therapies Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as “confidential.” Any information marked

as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

#### **FOR FURTHER INFORMATION CONTACT:**

Jarrold Collier or Joanne Lipkind, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6268, Silver Spring, MD 20993-0002, [ctgtac@fda.hhs.gov](mailto:ctgtac@fda.hhs.gov), or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area). A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, before coming to the meeting, you should always check the Agency’s website at <https://www.fda.gov/AdvisoryCommittees/default.htm> and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications.

#### **SUPPLEMENTARY INFORMATION:**

*Agenda:* The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. The CTGTAC committee will meet in open session on both days to discuss the toxicity risks of AAV vector-based gene therapy products. The discussion topics include oncogenicity risks due to vector genome integration and safety issues identified during preclinical and/or clinical evaluation. On September 2, 2021, in the morning, under session 1, the CTGTAC committee will meet to discuss and make recommendations on vector integration and oncogenicity risks. In the afternoon under session 2, the committee will discuss and make recommendations on hepatotoxicity issues. On September 3, 2021, in the morning under session 3, the committee will meet to discuss and make recommendations on thrombotic microangiopathy issues. In the

afternoon under session 4, the committee will discuss and make recommendations on non-clinical findings of neurotoxicity, especially related to the dorsal root ganglion toxicity issues. Also, in the afternoon under session 5, the committee will discuss and make recommendations on clinical findings of neurotoxicity, based on brain magnetic resonance imaging studies.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA’s website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at <https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm>. Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before August 26, 2021, will be provided to the committee. Oral presentations from the public will be scheduled twice each day between approximately 12:45 p.m. and 1:15 p.m. and 4:05 p.m. and 4:35 p.m. on September 2, and between 11 a.m. and 11:30 a.m. and 1:50 p.m. and 2:20 p.m. on September 3. Individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before August 18, 2021. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by August 19, 2021.

For press inquiries, please contact the Office of Media Affairs at [fdaoma@fda.hhs.gov](mailto:fdaoma@fda.hhs.gov) or 301-796-4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Jarrod Collier at [ctgtac@fda.hhs.gov](mailto:ctgtac@fda.hhs.gov) (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at <https://www.fda.gov/advisory-committees/about-advisory-committees/public-conduct-during-fda-advisory-committee-meetings> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 16, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021-15783 Filed 7-23-21; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2021-Z-0025]

#### Medical Devices; Class I Surgeon's and Patient Examination Gloves

**AGENCY:** Department of Health and Human Services (HHS), Food and Drug Administration (FDA).

**ACTION:** Final order, determination.

**SUMMARY:** The Department of Health and Human Services (HHS or “the Department”) issued a Notice in the **Federal Register** of January 15, 2021, (“the January 15 notice”) which identified seven types of reserved class I devices that the Department had determined no longer require premarket notification. The Department and the Food and Drug Administration (FDA or “the Agency”) issued a Notice in the **Federal Register** of April 16, 2021 (“the April 16 notice”) explaining the basis for our current view that the seven types of reserved class I devices identified in the January 15 notice require a premarket notification, and explaining why the reasoning supporting the prior determination was unsound. HHS and FDA sought comment on the matters discussed in the April 16 notice, and have considered the comments that were submitted to the docket. HHS and FDA are issuing this final order and determination that the seven types of class I surgeon's gloves and patient

examination gloves listed in the January 15 notice are reserved class I devices for which a premarket notification is required.

**DATES:** *Compliance date:* All devices subject to this order shall comply with the order no later than August 25, 2021.

**ADDRESSES:** For access to the docket to read background documents or the electronic and-written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

**FOR FURTHER INFORMATION CONTACT:**

Angela Krueger, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1660, Silver Spring, MD 20993, 301-796-6380, or by email at [RPG@fda.hhs.gov](mailto:RPG@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Background Regarding Section 510(l) of the FD&C Act

Under section 513 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. The Medical Device Amendments of 1976 (“1976 amendments”) (Pub. L. 94-295), and the Safe Medical Devices Act of 1990 (Pub. L. 101-629), require FDA to classify devices into class I (“general controls”) if there is information showing that the general controls of the FD&C Act are sufficient to assure safety and effectiveness; into class II (“special controls”), if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval), if there is insufficient information to support classifying a device into class I or class II and the device is a life sustaining or life supporting device, or is for a use which is of substantial importance in preventing impairment of human health, or presents a potential unreasonable risk of illness or injury.

Unless a device is exempt from premarket notification, section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and the implementing regulations, part 807 of Title 21 of the Code of Federal Regulations (CFR), require persons who

intend to market a new device to submit a premarket notification (510(k)) demonstrating the new device is “substantially equivalent” within the meaning of section 513(i) of the FD&C Act to a legally marketed device for which premarket approval is not required. Section 510(l)(1) of the FD&C Act, added to the statute by the Food and Drug Administration Modernization Act of 1997 (FDAMA), provides that a 510(k) is not required for a class I device, except for any class I device intended for a use that is of substantial importance in preventing impairment of human health, or any class I device that presents a potential unreasonable risk of illness or injury. FDA refers to these as the “reserved criteria” and to class I devices subject to 510(k) as “class I reserved devices.” Thus, class I devices are exempt from the 510(k) requirements except for class I device types that meet the reserved criteria under section 510(l)(1).

As discussed in the April 16 notice, since 2017, FDA has evaluated which devices meet the reserved criteria several times. See 86 FR 20167 at 20168. Each time, FDA has made its determinations available to the public through publication in the **Federal Register**. See 63 FR 5387, 63 FR 63222, 65 FR 2296, 82 FR 17841, 84 FR 71794. In 1998, after FDAMA was enacted, FDA evaluated all class I devices in interstate commerce at that time, and published a notice in the **Federal Register** containing: (1) A list of device types that FDA believed met the reserved criteria and thus would remain subject to premarket notification and (2) a list of device types that FDA believed did not meet these criteria and thus would be exempt from such requirements. See 63 FR 5387. Although devices that did not meet the reserved criteria became exempt on February 19, 1998, FDA also issued proposed and final rules amending the applicable classification regulations for these devices, as well as for five device types that FDA had exempted prior to FDAMA that, post-FDAMA, FDA determined meet the reserved criteria. See 63 FR 63222, 65 FR 2296.

On December 13, 2016, the 21st Century Cures Act (Cures Act) amended section 510(l) of the FD&C Act, reorganizing section 510(l) into paragraphs 510(l)(1) and (2). Section 510(l)(2) of the FD&C Act requires FDA to identify at least once every 5 years, through publication in the **Federal Register**, any type of class I device that the Agency determines no longer requires a report under section 510(k) of the FD&C Act to provide reasonable assurance of safety and effectiveness.

Section 510(l)(2) of the FD&C Act further provides that, upon publication of the Agency's determination in the **Federal Register**, these devices shall be exempt from 510(k), and the classification regulation applicable to each such type of device shall be deemed amended to incorporate such exemption. Accordingly, in 2017, FDA published in a notice in the **Federal Register** a list of class I device types that it has determined no longer meet the reserved criteria and are thus exempt from 510(k) (82 FR 17841). In 2019, FDA amended the classification regulations to reflect its exemption determinations.

## II. Criteria for Exemption From Section 510(k) of the FD&C Act

Section 510(l)(1) of the FD&C Act provides that a class I device is not exempt from the premarket notification requirements of section 510(k) of the FD&C Act if the device is intended for a use that is of substantial importance in preventing impairment of human health, or it presents a potential unreasonable risk of illness or injury. As explained in the April 16 notice, section 510(l)(2) of the FD&C Act directs FDA to identify which class I devices that FDA previously determined meet the reserved criteria no longer meet these criteria, in which case a 510(k) is no longer required to provide reasonable assurance of safety and effectiveness. FDA has explained that in determining whether either of these criteria are met, the Agency considers, for example, its experience in reviewing premarket notifications for each device, focusing on the risk inherent with the device and the disease being treated or diagnosed (e.g., devices with rapidly evolving technology or expansions of intended uses). See 63 FR 5387, 82 FR 17841. The Agency also considers the history of adverse event reports under the medical device reporting program for these devices, as well as their history of product recalls. *Id.*

As discussed in the April 16 notice, the January 15 notice (86 FR 4088) neither discussed the reserved criteria nor explained how HHS came to determine that the gloves no longer meet the reserved criteria; *i.e.*, that the gloves are not intended for a use that is of substantial importance in preventing impairment of human health, or do not present a potential unreasonable risk of illness or injury. The January 15 notice contained no mention of or cite to this statutory standard, nor an explanation as to why it was left out. The April 16 notice discussed other procedural and substantive deficiencies in the January 15 notice that contributed to HHS's and FDA's decision to reverse the

determinations made in that notice. For example, the January 15 notice relied solely upon adverse event reports in the Manufacturer and User Facility Device Experience (MAUDE) as its basis for determining the products to be exempt from 510(k), and then only adverse event reports for a very narrow period of time. While adverse event reports are a valuable source of information, the reports have limitations, including the potential submission of incomplete, inaccurate, untimely, unverified, or biased data. In addition, the incidence or prevalence of an event cannot be determined from adverse event reports alone, due to underreporting of events, inaccuracies in reports, lack of verification that the device caused the reported event, and lack of information about frequency of device use. Adverse event data is not adequate on its own for assessing safety, let alone whether to determine a device to be exempt from 510(k).

## III. Final Order Regarding Surgeon's Gloves and Patient Examination Gloves and Premarket Notification

In the April 16 notice, HHS and FDA announced our view that surgeon's gloves and patient examination gloves meet the reserved criteria, and sought comment on this determination. HHS and FDA received eight comments on that notice, all of which were supportive of the determination that surgeon's gloves and patient examination gloves meet the reserved criteria and are properly subject to premarket notification.

As discussed in the April 16 notice, because of their importance in preventing impairment of human health, FDA has long considered surgeon's and patient examination gloves to meet the reserved criteria under section 510(l) and to be subject to the 510(k) requirement. See 63 FR 5387, 63 FR 63222, 65 FR 2296. In 2017 and 2019, FDA evaluated all class I reserved devices to determine whether they continued to meet the reserved criteria. See 82 FR 17841, 84 FR 71794. FDA specifically evaluated the seven device types at issue based on its experiences with 510(k) submissions for the gloves, the risk inherent to the devices and the diseases they prevent, and other relevant considerations and determined that surgeon's gloves and patient examination gloves met the reserved criteria and therefore remained subject to premarket notification.

HHS and FDA continue to believe that these gloves are of substantial importance in preventing impairment of human health or present a potential unreasonable risk of illness or injury

and thus are subject to the reporting requirement under section 510(k) of the FD&C Act. Based on the risks inherent to surgeon's gloves and patient examination gloves and the diseases being prevented, FDA's experience with these devices, and other relevant considerations, HHS and FDA have determined that gloves with the product codes LYY, LYZ, OIG, OPC, OPH, LZC, and OPA are intended for uses which are of substantial importance in preventing impairment of human health or present a potential unreasonable risk of illness or injury, and thus a report is required under section 510(k) of the FD&C Act. Surgeon's gloves and patient examination gloves are generally intended to prevent contamination and the spread of pathogens, and can be the key barrier protecting against spreading infection (Refs. 1–3). See 21 CFR 878.4460 and 880.6250. As set forth in the April 16 notice, surgeon's gloves prevent against contamination in the operating room (Refs. 4 and 5), medical gloves protect against occupational exposure, for example, to chemotherapy drugs (Refs. 6 and 7), and these gloves play an important role in protecting the public. Review under section 510(k) is necessary to provide reasonable assurance of their safety and effectiveness, including by helping to assure that the identified gloves are durable and impermeable, among other things.

Based on this evaluation and considering the comments submitted, HHS and FDA have made a final determination that surgeon's gloves and patient examination gloves meet the reserved criteria and therefore are subject to premarket notification.

## IV. Further Information for Regulated Entities

The gloves discussed in this notice are reserved, and as such, a 510(k) is required for them. In general, FDA evaluates the dimensional and physical properties of the gloves, and nonclinical data regarding barrier performance, biocompatibility, and residual powders, among other information, to support the safety and effectiveness of the gloves for their intended use. FDA also evaluates the indications for use and labeling to ensure the devices are appropriately labeled, consistent with their intended use. For any gloves that are distributed—including any gloves that are presented for import—after the compliance date of this order without premarket review, the Agency will consider and take appropriate enforcement action, taking into account the enforcement policy in its Guidance for Industry, "Enforcement Policy for

Gowns, Other Apparel, and Gloves During the Coronavirus Disease (COVID-19) Public Health Emergency; Guidance for Industry and Food and Drug Administration Staff” (Ref. 8).

## V. References

The following references marked with an asterisk (\*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at <https://www.regulations.gov>. References without asterisks are not on public display at <https://www.regulations.gov> because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. \*Centers for Disease Control. “Perspectives in Disease Prevention and Health Promotion Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings.” *Morbidity and Mortality Weekly Report* 1988; 37(25):377–388.
2. World Health Organization. Glove Use Information Leaflet. 2009. [https://www.who.int/gpsc/5may/Glove\\_Use\\_Information\\_Leaflet.pdf](https://www.who.int/gpsc/5may/Glove_Use_Information_Leaflet.pdf).
3. \*Collins, A.S. “Preventing Health Care-Associated Infections.” In: Hughes, R.G., editor. *Patient Safety and Quality: An Evidence-Based Handbook for Nurses*. Rockville (MD): Agency for Healthcare Research and Quality (US); 2008 April. Chapter 41. [https://www.ncbi.nlm.nih.gov/books/NBK2683/pdf/Bookshelf\\_NBK2683.pdf](https://www.ncbi.nlm.nih.gov/books/NBK2683/pdf/Bookshelf_NBK2683.pdf).
4. Alexander, J. Wesley, Joseph S. Solomkin, and Michael J. Edwards (2011). “Updated Recommendations for Control of Surgical Site Infections,” *Annals of Surgery*, 253(6):1082–1093.
5. Sugarbaker, P.H. (2018). “Increased Safety of Surgical Glove Application: The Under/Over Method” *Annals of the Royal College of Surgeons of England*, 100(4):339–340.
6. Landeck, L., E. Gonzalez, and O.M. Koch. “Handling Chemotherapy Drugs—Do Medical Gloves Really Protect?” *International Journal of Cancer*. 2015 October 15;137(8):1800–5. doi: 10.1002/ijc.29058. Epub 2014 July 22. PMID: 24978061
7. Nalin, M., G. Hug, E. Boeckmans, C. Machon, et al. “Permeation Measurement of 27 Chemotherapy Drugs After Simulated Dynamic Testing on 15 Surgical And Examination Gloves: A Knowledge Update.” *Journal of*

*Oncology Pharmacy Practice*. 2020 Aug 26;1078155220950423. doi: 10.1177/1078155220950423. Epub ahead of print. PMID: 32847481.

8. \*FDA Guidance, “Enforcement Policy for Gown, Other Apparel, and Gloves During the Coronavirus Disease (COVID-19) Public Health Emergency, Guidance for Industry and Food and Drug Administration Staff,” March 25, 2020, available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/enforcement-policy-gowns-other-apparel-and-gloves-during-coronavirus-disease-covid-19-public-health>.

Dated: July 12, 2021.

**Janet Woodcock,**

*Acting Commissioner of Food and Drugs.*

Dated: July 21, 2021.

**Xavier Becerra,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2021–15891 Filed 7–23–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2020–N–2149]

#### Jonathan Doyle: Final Debarment Order

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarbing Jonathan Doyle for a period of 5 years from importing articles of food or offering such articles for importation into the United States. FDA bases this order on a finding that Mr. Doyle was convicted of a felony count under Federal law for conduct relating to the importation into the United States of an article of food. Mr. Doyle was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. As of April 8, 2021 (30 days after receipt of the notice), Mr. Doyle has not responded. Mr. Doyle's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

**DATES:** This order is applicable July 26, 2021.

**ADDRESSES:** Submit applications for termination of debarment to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, or at <https://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Jaime Espinosa, Division of Enforcement (ELEM–4029), Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240–402–8743, or at [debarments@fda.hhs.gov](mailto:debarments@fda.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)) permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food.

On October 15, 2020, Mr. Doyle was convicted as defined in section 306(j)(1)(A) of the FD&C Act, in the U.S. District Court for the Northern District of Texas–Dallas Division, when the court accepted Mr. Doyle's plea of guilty and entered judgment against him for the offense of conspiracy to introduce misbranded food into interstate commerce with an intent to defraud and mislead in violation of 18 U.S.C. 371 (21 U.S.C. 331(a) and 21 U.S.C. 333(a)(2)).

FDA's finding that the debarment is appropriate is based on the felony conviction referenced herein. The factual basis for this conviction is as follows: As contained in the factual résumé, dated February 15, 2019, in Mr. Doyle's case, he was the President of USPlabs, LLC (USP Labs), and owned 45 percent of the company. USP Labs sold dietary supplements. Beginning in or around October 2008 and continuing until at least in or around August 2014, Mr. Doyle engaged in a conspiracy with others to import and ship in interstate commerce a variety of chemicals for use and prospective use in dietary supplements with false labeling. To further this conspiracy, Mr. Doyle's coconspirators ordered chemicals from Chinese chemical sellers to be used as ingredients in dietary supplements and had them labeled falsely as other food substances. USP Labs sold dietary supplements called Jack3d and OxyElite Pro, both of which originally contained a substance called 1,3-dimethylamylamine (DMAA), which is also known as methylhexanamine. USP Labs imported numerous substances intended for human consumption, including DMAA, using false and fraudulent Certificates of Analysis (COA) and other false and fraudulent documentation and labeling. At least some of the false COAs that USP Labs

caused to be created for their DMAA shipments stated falsely that the substance in the shipments had been extracted from the geranium plant. Further, on or about December 8, 2011, Mr. Doyle's coconspirator instructed a Chinese chemical seller via email to misbrand a shipment of nine different chemicals sent from China to USP Labs in Texas. One of those synthetic chemicals was called "aegeline." The first aegeline-containing version of OxyElite Pro, which was called OxyElite "New Formula," went on sale in December 2012. In summer 2013, USP Labs reformulated the product again to contain aegeline and powder derived from a Chinese herb called *cynanchum auriculatum*. On or about June 15, 2013, Mr. Doyle's coconspirator instructed a Chinese chemical seller to have two metric tons of ground *cynanchum auriculatum* root powder shipped internationally to SK Laboratories in California for inclusion in USP Labs' products, using the false name "*cynanchum auriculatum* root extract." USP Labs sent false labels listing "*cynanchum auriculatum* (root) extract" as an ingredient in its OxyElite Pro "Advanced Formula" supplement, even though that ingredient was not present in the product. The conspirators collected millions in revenue that they would not have obtained, absent the conspiracy.

As a result of this conviction FDA sent Mr. Doyle, by certified mail on March 4, 2021, a notice proposing to debar him for a period of 5 years from importing articles of food or offering such articles for import into the United States. The proposal was based on a finding under section 306(b)(1)(C) of the FD&C Act that Mr. Doyle's felony conviction of conspiracy to introduce misbranded food into interstate commerce with an intent to defraud and mislead in violation of 18 U.S.C. 371 (21 U.S.C. 331(a) and 21 U.S.C. 333(a)(2)), constitutes conduct relating to the importation into the United States of an article of food because the offense involved a conspiracy to import a variety of chemicals with false labeling in order to either use those chemicals in dietary supplements which would themselves also contain false labeling or to determine whether those chemicals could be used in new dietary supplements.

The proposal was also based on a determination, after consideration of the relevant factors set forth in section 306(c)(3) of the FD&C Act, that Mr. Doyle should be subject to a 5-year period of debarment. The proposal also offered Mr. Doyle an opportunity to request a hearing, providing Mr. Doyle

30 days from the date of receipt of the letter in which to file the request, and advised Mr. Doyle that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Doyle failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

## II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(1)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. Jonathan Doyle has been convicted of a felony count under Federal law for conduct relating to the importation into the United States of an article of food and that he is subject to a 5-year period of debarment.

As a result of the foregoing finding, Mr. Doyle is debarred for a period of 5 years from importing articles of food or offering such articles for import into the United States, effective July 26, 2021. Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of Jonathan Doyle is a prohibited act.

Any application by Mr. Doyle for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA-2020-N-2149 and sent to the Dockets Management Staff (**ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20.

Publicly available submissions will be placed in the docket and will be viewable at <https://www.regulations.gov> or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

Dated: July 19, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021-15775 Filed 7-23-21; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

**Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: COVID-19 Provider Relief Fund Reporting Activities, OMB No. 0906-XXXX New**

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

**DATES:** Comments on this ICR should be received no later than September 24, 2021.

**ADDRESSES:** Submit your comments to [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443-1984.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the information request collection title for reference.

*Information Collection Request Title:* COVID-19 Provider Relief Fund Reporting Activities, OMB No. 0906-XXXX New.

*Abstract:* HRSA administers the Provider Relief Fund (PRF), which has disbursed funds to eligible health care providers to support health care-related expenses or lost revenues attributable to the COVID-19 pandemic. Providers who have accepted the Terms and Conditions regarding their PRF payment(s), including the requirement that the provider "shall submit reports as the Secretary determines are needed to ensure compliance with conditions that are imposed on this Payment, and

such reports shall be in such form, with such content, as specified by the Secretary in future program instructions directed to all Recipients," will be using the PRF Reporting Portal to submit information about their use of PRF payments. HRSA is currently operating under the Paperwork Reduction Act Public Health Emergency (PHE) waiver that was approved by the Office of the Assistant Secretary for Planning and Evaluation on January 14, 2021. In anticipation of the PHE waiver expiring, HRSA is undergoing the OMB clearance process as the data will be collected beyond the PHE.

*Need and Proposed Use of the Information:* Recipients of a PRF payment agreed to a set of Terms and Conditions, which, among other requirements, mandate compliance with certain reporting requirements that will facilitate appropriate oversight of recipients' use of funds.

Information collected will allow for (1) assessing whether recipients have met statutory and programmatic requirements, (2) conducting audits, (3) gathering data required to report on findings with respect to the disbursements of PRF payments, and (4) program evaluation. HRSA staff will

also use information collected to identify and report on trends in health care metrics and expenditures before and during the allowable period for expending PRF payments.

*Likely Respondents:* PRF recipients who have received more than \$10,000 in aggregate PRF payments during one of the Payment Received Periods outlined below and that agreed to the associated Terms and Conditions are required to submit a report in the PRF Reporting Portal during the applicable Reporting Time Period.

Reporting period	Payment received period (payments exceeding \$10,000 in aggregate received)	Reporting time period
Period 1 .....	April 10, 2020, to June 30, 2020 .....	July 1, 2021, to September 30, 2021.
Period 2 .....	July 1, 2020, to December 31, 2020 .....	January 1, 2022, to March 31, 2022.
Period 3 .....	January 1, 2021, to June 30, 2021 .....	July 1, 2022, to September 30, 2022.
Period 4 .....	July 1, 2021, to December 31, 2021 .....	January 1, 2023, to March 31, 2023.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize

technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search

data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

#### TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
PRF Reporting Portal, Reporting Period 1 (Providers who received payments April 10, 2020, to June 30, 2020) .....	126,831	1	126,831	5.6	710,254
PRF Reporting Portal, Reporting Period 2 (Providers who received payments July 1, 2020, to December 31, 2020) .....	120,536	1	120,536	4.2	506,251
PRF Reporting Portal, Reporting Period 3 (Providers who received payments January 1, 2021, to June 30, 2021) .....	19,962	1	19,962	5.6	111,787
PRF Reporting Portal, Reporting Period 4 (Providers who received payments July 1, 2021, to December 31, 2021) .....	19,962	1	19,962	5.6	111,787
Total .....	287,291	.....	287,291	.....	1,440,079

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**Maria G. Button,**

*Director, Executive Secretariat.*

[FR Doc. 2021-15885 Filed 7-23-21; 8:45 am]

**BILLING CODE 4165-15-P**

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Meeting of the Tick-Borne Disease Working Group

**AGENCY:** Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** As required by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the Tick-Borne Disease Working

Group (TBDWG) will hold a virtual meeting. The meeting will be open to the public. For this meeting, TBDWG members will focus on plans to develop the next report due December 2022 on federal tick-borne activities and research, taking into consideration the 2018 and 2020 reports. The 2022 report will address a wide range of topics related to tick-borne diseases, such as, surveillance, prevention, diagnosis, diagnostics, and treatment; identify advances made in research, as well as overlap and gaps in tick-borne disease research; and provide recommendations regarding any appropriate changes or

improvements to such activities and research.

**DATES:** The meeting will be held online via webcast on August 26, 2021 from approximately 9:00 a.m. to 5:00 p.m. ET (times are tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the TBDWG web page at <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2021-08-26/index.html> when this information becomes available.

**FOR FURTHER INFORMATION CONTACT:** James Berger, Designated Federal Officer for the TBDWG; Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Mary E. Switzer Building, 330 C Street SW, Suite L600, Washington, DC 20024. Email: [tickbornedisease@hhs.gov](mailto:tickbornedisease@hhs.gov).

**SUPPLEMENTARY INFORMATION:** Registration information can be found on the meeting website at <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2021-08-26/index.html> when it becomes available. The public will have an opportunity to present their views to the TBDWG orally during the meeting's public comment session or by submitting a written public comment. Comments should be pertinent to the meeting discussion. Persons who wish to provide verbal or written public comment should review instructions at <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2021-08-26/index.html> and respond by midnight August 17, 2021 ET. Verbal comments will be limited to three minutes each to accommodate as many speakers as possible during the 30 minute session. Written public comments will be accessible to the public on the TBDWG web page prior to the meeting.

**Background and Authority:** The Tick-Borne Disease Working Group was established on August 10, 2017, in accordance with Section 2062 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to provide expertise and review federal efforts related to all tick-borne diseases, to help ensure interagency coordination and minimize overlap, and to examine research priorities. The TBDWG is required to submit a report to the HHS Secretary and Congress on their findings and any recommendations for the federal response to tick-borne disease every two years.

Dated: July 9, 2021.

**James J. Berger,**

*Designated Federal Officer, Tick-Borne Disease Working Group, Office of Infectious Disease and HIV/AIDS Policy.*

[FR Doc. 2021-15830 Filed 7-23-21; 8:45 am]

**BILLING CODE 4150-28-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Best Practices for Advancing Cultural Competency, Language Access and Sensitivity toward Asian Americans and Pacific Islanders

#### Correction

In notice document 2021-15168, appearing on pages 37757-37758 in the issue of Friday, July 16, 2021, make the following correction:

On page 37757, in the third column, on the thirty-sixth line from the top, "minorityhealth@hhs.gov" should read "minorityhealth@hhs.gov."

[FR Doc. C1-2021-15168 Filed 7-23-21; 8:45 am]

**BILLING CODE 0099-10-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Office of The Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Advisory Committee on Research on Women's Health.

The meeting will be held as a virtual meeting and open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (<http://videocast.nih.gov/>).

**Name of Committee:** Advisory Committee on Research on Women's Health.

**Date:** September 1, 2021.

**Time:** 1:30 p.m. to 2:30 p.m.

**Agenda:** Presentation from the ACRWH Working Group on the Women's Health Consensus Conference.

**Place:** National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

**Contact Person:** Samia Noursi, Ph.D., Associate Director, Science Policy, Planning, and Analysis, Office of Research on Women's Health, National Institutes of Health, 6707 Democracy Blvd., Room 402, Bethesda, MD 20892, 301-496-9472, [samia.noursi@nih.gov](mailto:samia.noursi@nih.gov).

**Name of Committee:** Advisory Committee on Research on Women's Health.

**Date:** October 20, 2021.

**Time:** 9:00 a.m. to 5:00 p.m.

**Agenda:** Reports on Congressionally Recommended Women's Health Priorities: Rising Maternal Morbidity and Mortality Rates; Rising Rates of Chronic Debilitating Conditions in Women; and Stagnant Cervical Cancer Survival Rates.

**Date:** October 21, 2021.

**Time:** 9:30 a.m. to 4:30 p.m.

**Agenda:** Director's Report, NCI Director Presentation, Women's Health Consensus Conference Working Group Report, and concept clearances for various ORWH programs.

**Place:** National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

**Contact Person:** Samia Noursi, Ph.D., Associate Director, Science Policy, Planning, and Analysis, Office of Research on Women's Health, National Institutes of Health, 6707 Democracy Blvd., Room 402, Bethesda, MD 20892, 301-496-9472, [samia.noursi@nih.gov](mailto:samia.noursi@nih.gov).

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meetings. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <https://orwh.od.nih.gov/>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: July 21, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-15865 Filed 7-23-21; 8:45 am]

**BILLING CODE 4140-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****National Institutes of Health****National Institute on Aging; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; Mitochondria and Aging.

*Date:* September 3, 2021.

*Time:* 10:00 a.m. to 12:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Anita H. Undale, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301-827-7428, [anita.undale@nih.gov](mailto:anita.undale@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: July 21, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-15866 Filed 7-23-21; 8:45 am]

**BILLING CODE 4140-01-P**

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency**

[Docket ID FEMA-2021-0002]

**Final Flood Hazard Determinations**

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

**DATES:** The date of November 5, 2021 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

**ADDRESSES:** The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center

at <https://msc.fema.gov> by the date indicated above.

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Mapping and Insurance eXchange (FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

Community	Community map repository address
Clay County, Iowa and Incorporated Areas Docket No.: FEMA-B-2036	
City of Dickens .....	Community Center, 100 Main Street, Dickens, IA 51333.
City of Everly .....	City Hall, 202 North Main Street, Everly, IA 51338.
City of Peterson .....	City Hall, 101 Main Street, Peterson, IA 51047.
City of Spencer .....	City Hall, 418 2nd Avenue West, Spencer, IA 51301.
City of Webb .....	City Hall, 306 Church Street, Webb, IA 51366.
Town of Gillett Grove .....	Town Hall, 221 Railway Street, Gillett Grove, IA 51341.
Unincorporated Areas of Clay County .....	Clay County Courthouse, 300 West 4th Street, Spencer, IA 51301.

Community	Community map repository address
<b>Osceola County, Iowa and Incorporated Areas</b> <b>Docket No.: FEMA-B-2012</b>	
City of Ashton .....	City Hall, 3029 3rd Street, Ashton, IA 51232.
City of Harris .....	Mayor's Office, 117 West Osceola Avenue, Harris, IA 51345.
City of Oscheyedan .....	City Hall, 869 Main Street, Oscheyedan, IA 51354.
City of Sibley .....	Sibley Municipal Offices, 808 3rd Avenue, Sibley, IA 51249.
Unincorporated Areas of Osceola County .....	Osceola County Courthouse, 300 7th Street, Sibley, IA 51249.
<b>Golden Valley County, Montana and Incorporated Areas</b> <b>Docket No.: FEMA-B-2013</b>	
Town of Lavina .....	Town Office, 117 Main Street, Lavina, MT 59046.
Town of Ryegate .....	Town Hall, 105 Kemp Street, Ryegate, MT 59074.
Unincorporated Areas of Golden Valley County .....	Golden Valley County Courthouse, 107 Kemp Street, Ryegate, MT 59074.

[FR Doc. 2021-15869 Filed 7-23-21; 8:45 am]  
BILLING CODE 9110-12-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2021-0002; Internal Agency Docket No. FEMA-B-2146]

### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new

buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before October 25, 2021.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2146, to Rick Sacibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacibit@fema.dhs.gov](mailto:patrick.sacibit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacibit@fema.dhs.gov](mailto:patrick.sacibit@fema.dhs.gov); or visit the FEMA Mapping and Insurance eXchange (FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community

must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at [https://www.floodsrp.org/pdfs/srp\\_overview.pdf](https://www.floodsrp.org/pdfs/srp_overview.pdf).

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://>

[hazards.fema.gov/femaportal/prelimdownload](https://hazards.fema.gov/femaportal/prelimdownload) and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and

Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**  
Assistant Administrator for Risk  
Management, Department of Homeland  
Security, Federal Emergency Management  
Agency.

Community	Community map repository address
<b>Paulding County, Ohio and Incorporated Areas</b> <b>Project: 14-05-4448S Preliminary Date: October 16, 2020</b>	
Unincorporated Areas of Paulding County .....	Paulding County Commissioners Office, 115 North Williams Street, Paulding, OH 45879.
Village of Antwerp .....	Village Hall, 118 North Main Street, Antwerp, OH 45813.
Village of Cecil .....	Village Hall, 301 West 3rd Street, Cecil, OH 45821.
Village of Grover Hill .....	Village Hall, 104 South Main Street, Grover Hill, OH 45849.
Village of Haviland .....	Village Hall, 201 North Vine Street, Haviland, OH 45851.
Village of Melrose .....	Council House, 705 State Street, Melrose, OH 45861.
Village of Oakwood .....	Village Hall, 228 North 1st Street, Oakwood, OH 45873.
Village of Paulding .....	Village Hall, 116 South Main Street, Paulding, OH 45879.
Village of Payne .....	Village Hall, 119 North Main Street, Payne, OH 45880.
Village of Scott .....	Paulding County Commissioners Office, 115 North Williams Street, Paulding, OH 45879.

[FR Doc. 2021-15871 Filed 7-23-21; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2021-0002; Internal Agency Docket No. FEMA-B-2063]

### Proposed Flood Hazard Determinations for Bay County, Florida and Incorporated Areas

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Notice; withdrawal.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is withdrawing its proposed notice concerning proposed flood hazard determinations, which may include the addition or modification of any Base Flood Elevation, base flood depth, Special Flood Hazard Area boundary or zone designation, or regulatory floodway (herein after referred to as proposed flood hazard determinations) on the Flood Insurance Rate Maps and, where applicable, in the supporting Flood Insurance Study reports for Bay County, Florida and Incorporated Areas. **DATES:** This withdrawal is July 26, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. FEMA-B-2063, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street

SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** On November 18, 2020, FEMA published a proposed notice at 85 FR 73502, proposing flood hazard determinations for Bay County, Florida and Incorporated Areas. FEMA is withdrawing the proposed notice. *Authority:* 42 U.S.C. 4104; 44 CFR 67.4.

**Michael M. Grimm,**  
Assistant Administrator for Risk  
Management, Department of Homeland  
Security, Federal Emergency Management  
Agency.

[FR Doc. 2021-15867 Filed 7-23-21; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2021-0002; Internal Agency Docket No. FEMA-B-2151]

### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before October 25, 2021.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective

Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2151, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Mapping and Insurance eXchange (FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required

by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide

recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at [https://www.floodsrp.org/pdfs/srp\\_overview.pdf](https://www.floodsrp.org/pdfs/srp_overview.pdf).

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

Community	Community map repository address
<b>Warren County, Ohio and Incorporated Areas</b> <b>Project: 14-05-4202S Preliminary Date: February 3, 2021</b>	
City of Lebanon .....	Town Hall, 50 South Broadway, Lebanon, OH 45036.
City of Mason .....	Municipal Center, 6000 Mason Montgomery Road, Mason, OH 45040.
Unincorporated Areas of Warren County .....	Warren County Administration Building, 406 Justice Drive, Room 167, Lebanon, OH.
Village of Corwin .....	Village of Corwin Administration Building, 6050 North Clarksville Road, Waynesville, OH 45068.
Village of Maineville .....	Village of Maineville Administrative Offices, 8188 South State Route 48, Maineville, OH 45039.
Village of Morrow .....	Municipal Building, 150 East Pike Street, Morrow, OH 45152.
Village of South Lebanon .....	Municipal Building, 10 North High Street, South Lebanon, OH 45065.
Village of Waynesville .....	Municipal Building, 1400 Lytle Road, Waynesville, OH 45068.
<b>Brown County, Wisconsin and Incorporated Areas</b> <b>Project: 13-05-2177S Preliminary Date: November 18, 2020</b>	
City of De Pere .....	City Hall, 335 South Broadway, De Pere, WI 54115.
City of Green Bay .....	City Hall, 100 North Jefferson Street, Green Bay, WI 54301.
Village of Allouez .....	Brown County Planning, 305 East Walnut Street, Room 320, Green Bay, WI 54301.
Village of Ashwaubenon .....	Village Hall, 2155 Holmgren Way, Ashwaubenon, WI 54304.
Village of Howard .....	Village Hall, 2456 Glendale Avenue, Howard, WI 54313.
Village of Suamico .....	Municipal Services Center, 12781 Velp Avenue, Suamico, WI 54313.
Unincorporated Areas of Brown County .....	Brown County Planning, 305 East Walnut Street, Room 320, Green Bay, WI 54301.

[FR Doc. 2021-15868 Filed 7-23-21; 8:45 am]

BILLING CODE 9110-12-P

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency**

[Docket ID FEMA-2021-0002; Internal Agency Docket No. FEMA-B-2062]

**Proposed Flood Hazard Determinations for Franklin County, Florida and Incorporated Areas****AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.**ACTION:** Notice; withdrawal.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is withdrawing its proposed notice concerning proposed flood hazard determinations, which may include the addition or modification of any Base Flood Elevation, base flood depth, Special Flood Hazard Area boundary or zone designation, or regulatory floodway (herein after referred to as proposed flood hazard determinations) on the Flood Insurance Rate Maps and, where applicable, in the supporting Flood Insurance Study reports for Franklin County, Florida and Incorporated Areas.

**DATES:** This withdrawal is effective July 26, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. FEMA-B-2062, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** On October 29, 2020, FEMA published a proposed notice at 85 FR 68586, proposing flood hazard determinations for Franklin County, Florida and Incorporated Areas. FEMA is withdrawing the proposed notice.

**Authority:** 42 U.S.C. 4104; 44 CFR 67.4.**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2021-15873 Filed 7-23-21; 8:45 am]

BILLING CODE 9110-12-P

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency**

[Docket ID FEMA-2021-0002; Internal Agency Docket No. FEMA-B-2152]

**Proposed Flood Hazard Determinations****AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before October 25, 2021.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address

listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2152, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Mapping and Insurance eXchange (FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of

experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at [https://www.floodsrp.org/pdfs/srp\\_overview.pdf](https://www.floodsrp.org/pdfs/srp_overview.pdf).

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the

tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison. (Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

Community	Community map repository address
<b>Escambia County, Florida and Incorporated Areas</b> <b>Project: 11-04-1993S Preliminary Date: January 27, 2017</b>	
City of Pensacola .....	Inspection Services, 222 West Main Street, Pensacola, FL 32502.
Pensacola Beach-Santa Rosa Island Authority .....	Pensacola Beach-Santa Rosa Island Authority, 1 Via de Luna Drive, Pensacola Beach, FL 32561.
Town of Century .....	Planning and Zoning, 7995 North Century Boulevard, Century, FL 32535.
Unincorporated Areas of Escambia County .....	Escambia County Development Services Department, 3363 West Park Place, Pensacola, FL 32505.
<b>Walton County, Georgia and Incorporated Areas</b> <b>Project: 18-04-0003S Preliminary Date: July 29, 2020</b>	
City of Good Hope .....	City Hall, 169 Highway 83, Good Hope, GA 30641.
City of Monroe .....	City Hall, 215 North Broad Street, Monroe, GA 30655.
City of Social Circle .....	City Hall, 166 North Cherokee Road, Social Circle, GA 30025.
Unincorporated Areas of Walton County .....	Walton County Planning and Development Office, 303 South Hammond Drive, Suite 98, Monroe, GA 30655.
<b>Hopewell City, Virginia (Independent City)</b> <b>Project: 16-03-2426S Preliminary Date: February 12, 2021</b>	
City of Hopewell .....	City Hall, 300 North Main Street, Hopewell, VA 23860.

[FR Doc. 2021-15870 Filed 7-23-21; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

#### Exemption for Exclusive Area Agreements at Certain Airports

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** Notice.

**SUMMARY:** TSA is providing notice of temporary exemptions the agency is granting to three airport operators to permit them to enter into Exclusive Area Agreements (EAA) with Amazon Air, a subsidiary of Amazon.com Inc. The exemption applies to the following airport operators: Cincinnati/Northern Kentucky International Airport (CVG), Baltimore/Washington International Thurgood Marshall Airport (BWI), and Chicago Rockford International Airport (RFD).

**DATES:** These exemptions take effect on July 26, 2021 and remain in effect until modified or rescinded by TSA through a notice published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Eric Byczynski, Airport Security Programs, Aviation Division, Policy, Plans, and Engagement; email to: [eric.byczynski@tsa.dhs.gov](mailto:eric.byczynski@tsa.dhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Purpose

TSA's regulations provide that airport operators may enter into EAAs only with aircraft operators or foreign air carriers, subject to TSA approval of an amendment to each airport operator's airport security program (ASP). See 49 CFR 1542.111. Amazon Air is not an aircraft operator or foreign air carrier, but conducts significant operations at three airports on behalf of aircraft operators.

TSA has determined it is in the public interest to authorize these airport operators to enter into EAAs with

Amazon Air because this action will create operational and economic efficiencies for the airport operators and Amazon Air, to the economic benefit of the public and without detriment to security. The exemptions permit these airports to leverage significant private sector technologies with respect to access control and monitoring systems that enhance security and minimize insider threat. The exemptions will also facilitate the rapid hiring of significant numbers of new personnel to support Amazon Air's expanded presence at these locations, aiding the economy in the surrounding areas. Finally, the exemptions will permit TSA to exercise direct regulatory oversight of Amazon Air concerning the security functions they will perform under the EAAs. All other provisions of 49 CFR 1542.111 will apply to any EAA executed under these exemptions.

## II. Background

### A. Airport Security

TSA administers a comprehensive regulatory program to govern the security of aviation, including standards for domestic airports, domestic aircraft operators, and foreign air carriers. The security requirements for domestic airports are codified at 49 CFR part 1542 and include minimum standards for access control procedures, identification (ID) media, passenger screening, criminal history records checks (CHRCs) of airport workers, law enforcement support, training, contingency plans, TSA inspection authority, and incident management. These regulations require airport operators to conduct specified security measures in the secured area,<sup>1</sup> air operations area (AOA), and security identification display area (SIDA) of the airport. Part 1542 requires airports to develop and follow TSA-approved ASPs<sup>2</sup> that establish security procedures specific to each airport, and Security Directives, which apply to all airports.

TSA recognizes that, in certain circumstances, these security measures may be performed more effectively or efficiently by another TSA-regulated party, such as an aircraft operator or foreign air carrier, operating on the airport. Therefore, under 49 CFR 1542.111, TSA may approve an amendment to an airport's ASP that permits the airport operator to execute a legally binding EAA with an aircraft operator<sup>3</sup> or foreign air carrier.<sup>4</sup> Under the EAA, the aircraft operator or foreign air carrier assumes responsibility from the airport operator for specified ASP security measures in all or specified portions of the secured area, AOA, or SIDA.<sup>5</sup> TSA requires the EAA to be in writing, and signed by the airport operator and the aircraft operator or foreign air carrier.<sup>6</sup> TSA also prescribes in detail the required contents of the EAA, including a description of the measures that become the responsibility of the aircraft operator or foreign air carrier.<sup>7</sup>

EAAAs are an established part of TSA's regulatory structure for airport operators, commonly used since 1978.<sup>8</sup> Currently, there are more than 70 EAAAs in place with aircraft operators and foreign air carriers at domestic airports.

EAAAs are typically used when an entire airport terminal is serviced exclusively by one aircraft operator. At locations with EAAAs, TSA conducts standard compliance inspections, and may issue violations of the security standard set forth in the EAA against the aircraft operator or foreign air carrier that holds the EAA.

### B. Entities Subject to the Exemptions

These exemptions are limited to three airports—CVG, BWI, and RFD—and the operations of Amazon Air at these locations.

Amazon.com, Inc. is an American multinational technology company based in Seattle, Washington engaged in e-commerce, cloud computing, digital streaming, artificial intelligence, and cargo shipping. As of Spring 2021, Amazon reports that, less than 20 percent of Amazon's cargo is shipped by air. Due in part, however, to the COVID-19 public health crisis and impact on the economy, cargo shipment has increased dramatically, with a corresponding relative increase in the total volume of air cargo.

Amazon's subsidiary, Amazon Air, maintains operations at various domestic and international airports. Amazon Air owns air cargo aircraft, but does not operate the aircraft itself and is not an aircraft operator for purposes of TSA's regulations. Amazon Air leases the aircraft to certain aircraft operators holding TSA full all-cargo security programs.<sup>9</sup> Amazon Air then acts as an authorized representative for these full all-cargo aircraft operators<sup>10</sup> at certain airports, including the three covered by these Exemptions.

As an authorized representative<sup>11</sup> at these locations, Amazon Air performs security functions under TSA's Full All-Cargo Aircraft Operator Standard Security Program on behalf of these aircraft operators, including the responsibility for preventing access to both aircraft and the cargo bound for those aircraft, and providing the Ground Security Coordinator, the individual at the facility responsible for coordinating

these security responsibilities. Amazon Air has also assumed security responsibility for performing cargo acceptance and chain of custody; cargo screening, buildup, and consolidation; recordkeeping; cargo training; aircraft searches; screening "jump seaters"<sup>12</sup> and their property; incident reporting; comparing jump seaters and individuals who have access to aircraft and cargo against watchlists; and participation in table top exercises.

Based on logistics and Amazon Air's current transportation network, these airports have become high capacity locations. As noted above, these increases are due, in part, to the COVID pandemic, the public's heightened reliance on online shopping for basic goods, and the Nation's needs to move personal protective equipment and related products quickly. Amazon Air estimates that these trends will not significantly diminish when the public health crisis ends.

To address the current and anticipated demand, Amazon Air is increasing use of its own employees for company services and operations, rather than contracting out for services. Amazon Air already has employees in place at the three locations within the scope of this exemption and has represented to TSA that it intends to hire significantly more employees over the next 12 to 18 months.

Hiring surges can occur at all airports throughout the year due to seasonal changes or construction. Most airports can plan ahead for these surges to ensure sufficient staffing in the airport badging offices to begin the vetting process and issue ID media to new employees. However, when a new or existing employer has a significant, sudden increase in employees, all airport vendors can be adversely affected by the strain this places on the airport badging system. It takes significant time to collect the biometric and biographic information needed to initiate CHRCs and security threat assessments (STA), adjudicate CHRCs, and issue the ID media.

Amazon Air has represented to TSA that it has the capability and capacity to assume certain security responsibilities under the ASPs at these airports. These security responsibilities include physical control of access points at the locations; adjudicating CHRCs for disqualifying offenses and submitting STAs for its employees; issuing ID

<sup>9</sup> See 49 CFR 1544.101(h) for scope of a full all-cargo security program.

<sup>10</sup> For purposes of this exemption, applicable full all-cargo aircraft operators include Atlas Air, Air Transport International, ABX, Inc., and Sun Country Airlines.

<sup>11</sup> An "authorized representative" is a person who performs TSA-required security measures as an agent of a TSA-regulated party. Although the authorized representative may perform the measures, the TSA-regulated party remains responsible for completion, and TSA holds the TSA-regulated party primarily accountable through enforcement action of any violations. TSA may also hold the authorized representative accountable if it causes the regulated party's violation. See 49 CFR 1540.105.

<sup>1</sup> 49 CFR 1540.5 for definitions of terms used throughout this notice.

<sup>2</sup> 49 CFR 1542.105(a).

<sup>3</sup> 49 CFR part 1544.

<sup>4</sup> 49 CFR part 1546.

<sup>5</sup> 49 CFR 1542.111(a).

<sup>6</sup> 49 CFR 1542.111(b).

<sup>7</sup> 49 CFR 1542.111(b)(1)–(3).

<sup>8</sup> Published at 43 FR 60792 (Dec. 28, 1978).

<sup>12</sup> The term "jump seater" refers to an off duty commercial pilot who is permitted to travel by using the jumpseat in the cockpit of a commercial aircraft operator.

media; and conducting ID media accountability audits.

TSA has determined that Amazon Air possesses the latest, sophisticated access control and monitoring systems that enhance security by significantly restricting access to cargo and aircraft. Amazon Air is in the process of installing these systems at access points at these locations. As a subsidiary of a profitable, private sector leader in technology, Amazon Air benefits from ample resources to purchase advanced equipment as needed, without regard to local government budget restrictions that many airports face. This factor provides a level of assurance that the security capability will remain consistent and substantial. Amazon Air's independent economic stability also provides a level of assurance that it will be able to quickly obtain any necessary expertise it may need to carry out all of the EAA functions going forward.

### III. Authority and Determination

TSA may grant an exemption from a regulation if TSA determines that the exemption is in the public interest.<sup>13</sup> TSA finds this exemption to be in the public interest for several reasons. First, TSA has evaluated Amazon Air's security apparatus with respect to access control and monitoring, vetting and ID media issuance, and cargo management and movement, and determined it to be modern, strong, and resilient. Second, Amazon Air's significant personnel expansion at these locations may strain the resources of airport operator and aircraft operator badging offices, adversely affecting other airport vendors, and limiting new hire capability. Amazon Air's ability under an EAA to initiate the employee vetting functions that the airport authorities would otherwise be required to conduct will more efficiently manage volume as needed. This factor should reap economic benefits for the surrounding areas in terms of employment, and to other airport vendors who will not be adversely affected by a sudden increase in airport ID media issuance. Moreover, extending the authorities under an EAA to Amazon Air at these locations is consistent with Executive Order 13725 of April 16, 2016 (Steps to Increase Competition and Better Inform Consumers and Workers to Support Continued Growth of the American Economy)<sup>14</sup> to promote competition and reduce regulatory restrictions where possible. Finally, under the EAAs, TSA

will have direct oversight of Amazon Air's security activities, rather than indirectly through an aircraft operator for which Amazon Air is an authorized representative. Given the scale of Amazon Air's commercial activities and physical infrastructure that must be secured at these airports, TSA compliance oversight will be more efficient and effective if conducted directly over Amazon Air.

Therefore, TSA has determined that it is in the public interest to grant CVG, BWI, and RFD an exemption from the provision in 49 CFR 1542.111 that limits the persons with whom an airport operator may execute an EAA to aircraft operators and foreign air carriers. Under this exemption, CVG, BWI, and RFD, respectively, may enter into an EAA with Amazon Air consistent with TSA EAA-requirements. These exemptions apply only to these airports and their respective EAAs with Amazon Air.

### IV. Exemptions

**Applicability:** These exemptions apply to CVG, BWI, and RFD.

**Exemption:** For the duration of each exemption, CVG, BWI, and RFD, respectively, may apply for an amendment to their airport security program that permits the airport operator to enter into an EAA in accordance with 49 CFR 1542.111 with Amazon Air, notwithstanding that Amazon Air is not a TSA-regulated aircraft operator or foreign air carrier. The terms of the EAA replace the requirements in 49 CFR part 1542 so long as Amazon Air complies with the EAA. This amendment and the EAA must require Amazon Air to comply with all relevant Security Directives and Emergency Amendments issued by TSA.

**Duration:** These exemptions take effect on July 26, 2021. At CVG, BWI, and RFD, Amazon Air may begin performing as an EAA-holder on the date on which TSA approves an amendment to the respective airport operator's airport security program implementing each executed EAA. Each exemption will remain in effect while the airport operator's TSA-approved airport security program remains in effect. TSA may direct revisions to the ASP amendment and EAA with regard to one or more of the covered airport operators, for security reasons under 49 CFR 1542.105(b). TSA may rescind the ASP amendment and EAA, and may rescind or modify the exemption, with regard to one or more of the covered airport operators, at any time.

Dated: July 19, 2021.

**David P. Pekoske,**  
Administrator.

[FR Doc. 2021-15902 Filed 7-22-21; 4:15 pm]

BILLING CODE 9110-05-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7034-N-43; OMB Control No.: 2502-New]

### 30-Day Notice of Proposed Information Collection: Housing Counseling Agency Activity Report

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* August 25, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/StartPrintedPage15501PRAMain](http://www.reginfo.gov/public/do/StartPrintedPage15501PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) or telephone 202-402-3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 19, 2021 at 86 FR 27100.

<sup>13</sup> See 49 U.S.C. 114(q).

<sup>14</sup> Published at 81 FR 23417 (April 20, 2016).

**A. Overview of Information Collection**

*Title of Information Collection:*  
Housing Counseling Agency Activity Report.

*OMB Approval Number:* 250–new.

*OMB Expiration Date:* None.

*Type of Request:* New Collection.

*Form Number:* HUD–9902, Housing Counseling Agency Activity Report.

*Description of the need for the information and proposed use:* The purpose of this information is to collect data related to performance and impact on housing counseling performed by HUD-approved housing counseling agencies.

Information collected through the form HUD–9902 is critical as the data provided allows HUD to demonstrate program impact to Congress and the Office of Management and Budget (OMB). Additionally, the data collected on form HUD–9902 plays a key role in analyzing performance and capacity during the Office of Housing Counseling's Notice of Funding Availability (NOFA) process.

*Respondents:* Not-for-profit institutions; State, Local or Tribal Government.

*Estimated Number of Respondents:* 1,714.

*Estimated Number of Responses:* 1,714.

*Frequency of Response:* Quarterly (in a calendar year).

*Average Hours per Response:* .75 hours.

*Total Estimated Burden:* 2,566 hours.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

**C. Authority**

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

**Colette Pollard,**

*Department Reports Management Officer,  
Office of the Chief Information Officer.*

[FR Doc. 2021–15779 Filed 7–23–21; 8:45 am]

**BILLING CODE 4210–67–P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR–7034–N–42; OMB Control No. 2502–0562]**

**30-Day Notice of Proposed Information Collection: Manufactured Housing Dispute Resolution Program**

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* August 25, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/StartPrintedPage15501PRAMain](http://www.reginfo.gov/public/do/StartPrintedPage15501PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:**

Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette.Pollard@hud.gov or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD has submitted to OMB a request for approval of the information collection

described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 7, 2021 at 87 FR 24654.

**A. Overview of Information Collection**

*Title of Information Collection:*  
Manufactured Housing Dispute Resolution Program.

*OMB Approval Number:* 2502–0562.

*OMB Expiration Date:* 08/31/2021.

*Type of Request:* Revision of a currently approved collection.

*Form Numbers:* HUD–310–DRSC; HUD–311–DR.

*Description of the need for the information and proposed use:* The state programs will file form HUD–310–DRSC. HUD uses the information on state certifications to determine whether the state programs comply with the minimum requirements set out in the regulations. Homeowners and industry respondents will use form HUD–311–DR. HUD uses the required information for screening that a defect that is properly alleged and timely reported under the Federal manufactured housing dispute resolution program.

*Respondents:* Individuals and households; State, Local or Tribal Government; Business or other for-profit.

*Estimated Number of Respondents:* 125.

*Estimated Number of Responses:* 125.

*Frequency of Response:* HUD–310–DRSC, one time for initial independent application by state, and then one time every three years for certain states; HUD–311–DR, one time per alleged defect.

*Average Hours per Response:* 1.

*Total Estimated Burden:* 125.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

### C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Colette Pollard,

*Department Reports Management Officer,  
Office of the Chief Information Officer.*

[FR Doc. 2021-15774 Filed 7-23-21; 8:45 am]

BILLING CODE 4210-67-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7034-N-40; OMB Control No.: 2502-0418]

### 30-Day Notice of Proposed Information Collection: Multifamily Insurance Benefits Claims Package

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* August 25, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/StartPrintedPage15501PRAMain](http://www.reginfo.gov/public/do/StartPrintedPage15501PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

#### FOR FURTHER INFORMATION CONTACT:

Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette.Pollard@hud.gov or telephone 202-402-3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 11, 2021, at 86 FR 25881.

### A. Overview of Information Collection

*Title of Information Collection:* Multifamily Insurance Benefits Claims Package.

*OMB Approval Number:* 2502-0418.

*OMB Expiration Date:* 06/30/2021.

*Type of Request:* Revision of a currently approved collection.

*Form Numbers:* HUD-2741; HUD-2742; HUD-2744-A; HUD-2744-B; HUD-2744-C; HUD-2744-D; HUD-2744-E; HUD-434; HUD-1044-D.

*Description of the need for the information and proposed use:* A lender with an insured multifamily mortgage pays an annual insurance premium to the Department. When and if the mortgage goes into default, the lender may elect to file a claim for FHA Multifamily insurance benefits with the Department. HUD needs this information to determine if FHA multifamily insurance claims submitted to HUD are accurate, valid and support payment of an FHA multifamily insurance claim.

*Respondents:* Business or other for-profit; State, Local, or Tribal Government.

*Estimated Number of Respondents:* 110.

*Estimated Number of Responses:* 110.

*Frequency of Response:* Occasion.

*Average Hours per Response:* 6.25

*Total Estimated Burden:* 688 hours.

### B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through

the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

### C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Colette Pollard,

*Department Reports Management Officer,  
Office of the Chief Information Officer.*

[FR Doc. 2021-15782 Filed 7-23-21; 8:45 am]

BILLING CODE 4210-67-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7034-N-41; OMB Control No.: 2502-0615]

### 30-Day Notice of Proposed Information Collection: Survey To Assess Operational and Capacity Status of Housing Counseling Agencies Due to Disaster/National Emergency

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* August 25, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/StartPrintedPage15501PRAMain](http://www.reginfo.gov/public/do/StartPrintedPage15501PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

#### FOR FURTHER INFORMATION CONTACT:

Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette.Pollard@hud.gov or telephone 202-402-3400.

This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 10, 2021, at 88, FR 24880.

#### A. Overview of Information Collection

*Title of Information Collection:* Survey to Assess Operational Status and Capacity of Housing Counseling Agencies Due to a Disaster/National Emergency.

*OMB Approval Number:* 2502-0615.

*OMB Expiration Date:* May 31, 2021.

*Type of Request:* Revision of a currently approved collection.

*Form Number:* None.

*Description of the need for the information and proposed use:* The Disaster/National Emergency Survey will assess the operational and capacity status of Housing Counseling Agencies impacted by COVID-19 and other disasters and national emergencies. This Survey is necessary to assess the impact of the disasters and national emergencies on the operation of HUD-approved housing counseling agencies. This survey will more accurately assess the current operating status and capacity of housing counseling agencies impacted by disasters or national emergencies. The information collected will be used to identify the needs of the housing counseling agency and to inform OHC about the types of support that would be the most responsive to the needs of agencies and their clients.

*Respondents:* Not-for-profit institutions; Local, State, or Tribal Government.

*Estimated Number of Respondents:* 1,614.

*Estimated Number of Responses:* 1,614.

*Frequency of Response:* 1.

*Average Hours per Response:* 1.

*Total Estimated Burden:* 1,614.

#### B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the

proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

#### C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

**Colette Pollard,**

*Department Reports Management Officer,  
Office of the Chief Information Officer.*

[FR Doc. 2021-15773 Filed 7-23-21; 8:45 am]

**BILLING CODE 4210-67-P**

### INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1185]

#### **Certain Smart Thermostats, Smart HVAC Systems, and Components Thereof; Commission Determination To Review in Part a Final Initial Determination Finding No Violation of Section 337 and, on Review, To Affirm the Finding of No Violation; Termination of the Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part a final initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on April 20, 2021, finding no violation of section 337 in the above-referenced investigation and, on review, to affirm the finding of no violation.

The investigation is terminated.

**FOR FURTHER INFORMATION CONTACT:** Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW,

Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** On November 27, 2019, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based on a complaint filed by EcoFactor, Inc. of Palo Alto, California ("EcoFactor"). See 84 FR 65421-22 (Nov. 27, 2019). The complaint alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain smart thermostats, smart HVAC systems, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,131,497 ("the '497 patent"); 8,423,322 ("the '322 patent"); 8,498,753 ("the '753 patent"); and 10,018,371 ("the '371 patent"). See *id.* The notice of investigation names the following respondents: Daikin Industries, Ltd. of Osaka, Japan; Daikin America, Inc. of Orangeburg, New York; and Daikin North America LLC of Houston, Texas (collectively, "the Daikin Respondents"); Schneider Electric USA, Inc. of Andover, Massachusetts and Schneider Electric SE of Rueil-Malmaison, France (collectively, "the Schneider Respondents"); ecobee Ltd. and ecobee, Inc., both of Toronto, Canada (collectively, "ecobee"); Google LLC of Mountain View, California; Alarm.com Incorporated and Alarm.com Holdings, Inc. of Tysons, Virginia (collectively, "Alarm.com"); and Vivint, Inc. of Provo, Utah ("Vivint"). The Office of Unfair Import Investigations ("OUII") is also a party to the investigation.

On June 11, 2020, the ALJ issued an ID (Order No. 10) granting a joint motion to partially terminate the investigation as to the Daikin Respondents based on settlement. See Order No. 10 (June 11, 2020), *unreviewed* by Comm'n Notice (July 1, 2020). On August 10, 2020, the ALJ issued an ID (Order No. 15) granting a joint motion to terminate the

investigation in part as to the Schneider Respondents based on settlement. *See* Order No. 15 (Aug. 10, 2020), *unreviewed by Comm'n Notice* (Aug. 31, 2020). On November 27, 2020, the ALJ issued an ID (Order No. 27) granting an unopposed motion for partial termination of the investigation as to the asserted claims of the '753 patent; the asserted claims of the '322 patent and the '371 patent as to ecobee; and the asserted claims of the '497 patent as to Alarm.com. *See* Order No. 27, *unreviewed by Comm'n Notice* (Dec. 15, 2021).

On April 20, 2021, the ALJ issued the final ID in this investigation, holding that no violation of section 337 has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain smart thermostats, smart HVAC systems, and components thereof, with respect to asserted claims 1, 2, and 5 of patent '497, asserted claims 1, 2, and 5 of patent '322, and asserted claim 9 of patent '371.

Concerning infringement, the ID finds that respondent Google indirectly infringes all of the asserted claims. Specifically, the ID finds that Google induces infringement of all of the asserted claims and contributorily infringes the asserted claims of the '497 and '371 patents. The ID finds that EcoFactor has not shown that respondents ecobee, Vivint and Alarm.com infringe any of the asserted claims of the asserted patents.

Regarding the domestic industry requirement, the ID finds that EcoFactor has not satisfied the technical or economic prongs of the domestic industry requirement with respect to any of the asserted patents.

Concerning validity, with respect to the '497 patent, the ID finds that asserted claims 1, 2, and 5 have not been shown to be patent ineligible under 35 U.S.C. 101, and have not been shown to be invalid as anticipated or obvious under 35 U.S.C. 102 or 103, respectively. The ID further finds that the asserted claims of the '497 patent have not been shown to be invalid for indefiniteness under 35 U.S.C. 112, ¶ 2. The ID finds, however, that the asserted claims of the '497 patent have been shown to be invalid for lack of written description and enablement under 35 U.S.C. 112, ¶ 1.

As to the '322 patent, the ID finds that asserted claims 1, 2, and 5 have not been shown to be patent ineligible under 35 U.S.C. 101. The ID further finds that the asserted claims of the '322 patent have been shown to be invalid for lack of written description and

enablement under 35 U.S.C. 112, ¶ 1. The ID also finds that the asserted claims of the '322 patent have not been shown to be invalid for indefiniteness under 35 U.S.C. 112, ¶ 2. The ID finds, however, that claim 1 has been shown to be invalid as anticipated under 35 U.S.C. 102, but that claims 2 and 5 have been shown to be invalid as obvious under 35 U.S.C. 103.

With respect to the '371 patent, the ID finds that asserted claim 9 has not been shown to be patent ineligible under 35 U.S.C. 101, and has not been shown to be invalid under 35 U.S.C. 102 or 103.

On May 3, 2021, EcoFactor filed a petition for review of various portions of the ID, and respondent Google filed a contingent review for certain aspects of the ID. On May 4, 2021, respondent ecobee filed a contingent petition for review of certain aspect of the ID.

On May 11, 2021, complainant EcoFactor filed a response to Respondents' petitions for review. Also on May 11, 2021, respondents ecobee, Vivint, and Google each filed their respective responses. On May 12, 2021, OUII filed a response to the private parties' petitions.

Having examined the record in this investigation, including the final ID, the petitions for review, and the responses thereto, the Commission has determined to review in part the ID: (1) To review the language supporting the ID's determination that EcoFactor failed to satisfy the economic prong of the domestic industry requirement under subparagraphs (A) and (B), and on review to strike the last paragraph on page 560 (*see* ID at 560–561); (2) to review the ID's findings regarding induced and contributory infringement, and on review to additionally provide the requisite findings that Google was willfully blind with respect to the asserted patents and thus possessed the requisite knowledge that its products infringe those patents (with the exception of contributory infringement of the '322 patent) (*see* ID at 404–405, 408–409); and (3) to review the ID's conclusions of fact and law Nos. 14 and 22 on page 576, and on review to correct clerical errors so that each of them reads as follows: "Respondents have shown, through clear and convincing evidence, that the asserted claims are invalid under 35 U.S.C. 112, ¶ 1, and have not shown, through clear and convincing evidence, that the asserted claims are invalid under 35 U.S.C. 112, ¶ 2."

The Commission has determined not to review the remainder of the ID, including the ID's finding of no violation of section 337 in this investigation.

The investigation is terminated.

The Commission vote for this determination took place on July 20, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 20, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021–15857 Filed 7–23–21; 8:45 am]

**BILLING CODE 7020–02–P**

---

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open RF Association, Inc.

Notice is hereby given that, on May 25, 2021 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Open RF Association, Inc. filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, MixComm Inc., Chatham, NJ; and TMY Technology Inc., New Taipei City, TAIWAN have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Open RF Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On February 21, 2020, Open RF Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 11, 2020 (85 FR 14247).

The last notification was filed with the Department on March 11, 2021. A notice was published in the **Federal**

**Register** pursuant to Section 6(b) of the Act on April 8, 2021 (86 FR 18300).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-15817 Filed 7-23-21; 8:45 am]

**BILLING CODE 4410-11-P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Electrified Vehicle and Energy Storage Evaluation

Notice is hereby given that, on June 16, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Electrified Vehicle and Energy Storage Evaluation (“EVESE”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, The Dow Chemical Company, Midland, MI, has been added as a party to this venture. In addition, AMTE Power, Ltd., Caithness, UK, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and EVESE intends to file additional written notifications disclosing all changes in membership.

On September 24, 2020, EVESE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 15, 2020 (85 FR 65423).

The last notification was filed with the Department on February 10, 2021. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 10, 2021 (86 FR 13750).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-15818 Filed 7-23-21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Institute of Electrical and Electronics Engineers, Inc.

Notice is hereby given that, on May 25, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), The Institute of Electrical and Electronics Engineers, Inc. (“IEEE”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 17 new standards have been initiated and 2 existing standards are being revised. More detail regarding these changes can be found at: <https://standards.ieee.org/about/sasb/sba/may2021.html>.

On September 17, 2004, IEEE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2004 (69 FR 64105).

The last notification was filed with the Department on April 5, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 11, 2021 (86 FR 25887).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-15815 Filed 7-23-21; 8:45 am]

**BILLING CODE 4410-11-P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—ASTM International Standards

Notice is hereby given that on May 27, 2021 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), ASTM International (“ASTM”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act’s

provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASTM has provided an updated list of current, ongoing ASTM activities originating between February 17, 2021 and May 24, 2021 designated as Work Items. A complete listing of ASTM Work Items, along with a brief description of each, is available at <http://www.astm.org>.

On September 15, 2004, ASTM filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 2004 (69 FR 65226). The last notification with the Department was filed on February 22, 2021. A notice was filed in the **Federal Register** on April 8, 2021 (86 FR 18327).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-15816 Filed 7-23-21; 8:45 am]

**BILLING CODE 4410-11-P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—CHEDE-8

Notice is hereby given that, on June 2, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), CHEDE-8 (“CHEDE-8”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Dongfeng Commercial Vehicle Co., LTM, Hubei, CHINA, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CHEDE-8 intends to file additional written notifications disclosing all changes in membership.

On December 4, 2019, CHEDE-8 filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 30, 2019 (84 FR 71977).

The last notification was filed with the Department on January 6, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 19, 2021 (86 FR 5251).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-15820 Filed 7-23-21; 8:45 am]

BILLING CODE P

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Media Workflow Association, Inc.

Notice is hereby given that, on June 25, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Advanced Media Workflow Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Christie Digital Systems, Phoenix, AZ; Cobalt Digital Inc., Champaign, IL; and Pedro Ferreira (individual member), Lavra, PORTUGAL, have been added as parties to this venture.

Also, Beijing Gefei Tech Co., Ltd., Beijing, PEOPLE’S REPUBLIC OF CHINA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Media Workflow Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On March 28, 2000, Advanced Media Workflow Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on March 24, 2021. A notice was published in the **Federal**

**Register** pursuant to Section 6(b) of the Act on April 8, 2021 (86 FR 18299).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-15821 Filed 7-23-21; 8:45 am]

BILLING CODE 4410-11-P

## DEPARTMENT OF LABOR

#### Secretary’s Order 02-2021—To Withdraw Secretary’s Order 10-2020, Statement of Policy Regarding Independence of Advisory Committee Members

1. *Purpose.* To withdraw Secretary’s Order 10-2020, Statement of Policy Regarding Independence of Advisory Committee Members.

2. *Authorities and Directives Affected.* A. Authorities. This Order is issued pursuant to the following authorities:

1. 29 U.S.C. 551 *et seq.*;
2. 5 U.S.C. 301-02; and
3. 5 U.S.C. app. 2, 1-15.

B. Directives Affected. Secretary’s Order 10-2020 is hereby withdrawn.

3. *Definitions.* “Committee” refers to any advisory committee, committee, board, task force, or working group to which the Secretary or the Secretary’s designee appoints individuals subject to the Federal Advisory Committee Act and their subcommittees. This Order does not apply to internal committees, boards, task forces, or working groups, or to purely interagency committees, boards, task forces, or working groups.

4. *Background.* The stated purpose of Secretary’s Order 10-2020 was to strengthen the quality and reliability of advice provided by advisory committees to the Department of Labor (DOL), by identifying factors to be used in selecting committee members that will increase transparency in the disbursement of taxpayer dollars, enhance public confidence in advisory committees, and promote efficiency in the selection of candidates to serve on advisory committees. The formation of Committees and the selection of their membership are governed in detail by the Department of Labor Manual Series. Secretary’s Order 10-2020 established new, additional procedures for the evaluation of Committee members by requiring additional consideration of a candidate’s financial interests in DOL grants and contracts, and requiring agencies to collect a candidate attestation, the Individual’s Self-Certification of Financial Independence, from nominees. If the candidate was unable to self-certify, the agency head could review the circumstances to

determine whether the candidate was sufficiently financially independent from (*i.e.*, not so directly related to) DOL programs making grants or contract disbursements. These requirements were imposed in addition to the rigorous candidate background checks agencies perform routinely per DOL policy, although there had been no demonstrated necessity for the additional attestations or separate analyses Secretary’s Order 10-2020 requires. Furthermore, Secretary’s Order 10-2020 does not apply to all DOL advisory committee members as it provides for specific and qualified exceptions, and allows agencies to make case-by-case, independent determinations as to whether a candidate is sufficiently financially independent if a candidate is unable to self-certify, rendering its application inconsistent and arbitrary. As such, Secretary’s Order 10-2020 has created superfluous procedures with no demonstrated value justifying the additional administrative burden. While the Department has a strong interest in obtaining expert advice from its Committees, the Department has determined these new procedures on balance to be unnecessary. Accordingly, this Order rescinds Secretary’s Order 10-2020. Appointments previously made under Secretary’s Order 10-2020 are unaffected by this Order.

#### 5. *Responsibilities.*

A. The Deputy Secretary is responsible for issuing written guidance, as necessary, to implement this Order.

B. The Committee Management Officer, as required by § 8(b) of the Federal Advisory Committee Act, is responsible for coordinating all Federal Advisory Committee activities with DOL agencies.

C. The Assistant Secretary for Administration and Management, in consultation with the Deputy Secretary, Solicitor of Labor, and the Committee Management Officer, is responsible for maintaining internal Department guidance related to the selection and appointment of members to Committees.

D. The Solicitor of Labor is responsible for providing legal advice to the Department on all matters arising in the implementation and administration of this Order.

7. *Privacy.* This Order is subject to the applicable laws, regulations, and procedures concerning the privacy of applicants to Committees.

8. *Controlling Law; Administrative Matters.* The requirements of this Order are intended to be general in nature, and accordingly will be construed and implemented consistent with more

specific requirements of any statute, Executive Order, or other law governing the composition of a particular Committee. If a conflict arises, the specific statute, Executive Order, or other law will govern.

9. *Redelegation of Authority.* Except as otherwise provided by law, all authorities delegated in this Order may be redelegated to serve the purposes of this Order.

10. *Effective Date.* This Order is effective immediately.

Signed in Washington, DC, this 16th day of July, 2021.

**Martin J. Walsh,**  
Secretary of Labor.

[FR Doc. 2021-15826 Filed 7-23-21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petition for Modification of Application of an Existing Mandatory Safety Standard

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice includes the summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before August 25, 2021.

**ADDRESSES:** You may submit your comments including the docket number of the petition by any of the following methods:

1. *Electronic Mail:* [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202-693-9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Jessica D. Senk, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** Jessica D. Senk, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), [Senk.Jessica@dol.gov](mailto:Senk.Jessica@dol.gov) (email), or 202-693-9441 (facsimile). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

### I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

### II. Petition for Modification

*Docket Number:* M-2021-025-C.

*Petitioner:* Wolf Run Mining Company, 21550 Barbour County Highway, Philippi, West Virginia (Zip 26416).

*Mine:* Leer South Mine, MSHA ID No. 46-04168, located in Barbour County, West Virginia.

*Regulation Affected:* 30 CFR 75.1904(b)(6) (Underground diesel fuel tanks and safety cans).

*Modification Request:* The petitioner requests a modification of the existing standard to permit the use of Brookville locomotive diesel motor in a dual role as a motor/diesel fuel transportation unit. The petitioner proposes an alternative method of complying with the requirement for a shut-off valve in the locomotive motor's fuel return line (a connection between the engine and fuel tank through which fuel flows when the engine is running).

The petitioner states that the return line is unrelated to fuel dispensing, and that therefore a shutoff valve on this line is not necessary. Using a shutoff valve on the return line could cause engine damage and an over-fueling condition, due to the fuel not being able to return to the locomotive's fuel tank. This over-fueling condition would increase

harmful exhaust emissions such as carbon monoxide, and would therefore create a health risk to locomotive operators and miners in the affected area.

The petitioner proposes the following alternative method:

(a) The Brookville diesel motor has been equipped with a fuel tank constructed of ¼ inch steel plates that is designed to serve as both the motor's fuel tank and fuel dispensing tank. The tank is equipped with a pump that can only dispense 50 percent of the tank's capacity, in order to ensure that the motor's fuel supply cannot be completely depleted.

(b) During the fueling process, the motor's engine will be shut off, which eliminates unnecessary idling. The 8-gallons per minute fuel dispensing pump will operate utilizing a separate battery power source that has been added to the motor.

(c) The fuel dispensing hose is a 50-foot hose with a no latch open device and a self-closing valve. A power supply switch is located at the pump's nozzle storage bracket, and an emergency shut-off switch is located above the fuel tank. The emergency switch is protected by a cover, so that the switch is in the off position anytime the cover is closed.

(d) The following fueling procedures have been developed and posted above the fuel tank.

- Make sure fueling sign is hung.
- Inspect fire extinguishers prior to beginning the fueling process.
- Ensure fire extinguishers are located out-by the fueling point.
- Verify fuel hose, equipment, etc. are in good working condition.
- Test for methane in the atmosphere.
- Check for potential ignition sources and other hazards in the area.
- Notify the mine dispatcher before starting.
- Unlock and open the emergency switch.
- Check for any spills after the fueling is complete.
- Shut off the emergency switch and close locked cover.
- Notify the mine dispatcher after completion.

(e) The tank is equipped with a 4 inch vent designed to open at a pressure not to exceed 2.5 pounds per square inch, as required by 75.1904(b).

(f) Tank openings are marked and the tank, fittings and components are pressure-tested.

(g) The pump dispensing line is equipped with a manual shut off valve that serves as anti-siphoning device as required under 75.1905(b)(iii).

(h) Additional fire suppression and detection are installed to ensure that the

system meets all the requirements of 75.1911(b).

(i) At no time, the motor will be operated unattended, in accordance with 75.1916(e).

(j) Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM. The proposed revisions will include initial and refresher training regarding compliance with the terms and conditions of the PDO.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

**Jessica D. Senk,**

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 2021-15827 Filed 7-23-21; 8:45 am]

**BILLING CODE 4520-43-P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. OSHA-2012-0017]

#### **Reports of Injuries to Employees Operating Mechanical Power Presses; Extension of the Office of Management and Budget's (OMB) Approval of an Information Collection (Paperwork) Requirements**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Standard on Reports of Injuries to Employees Operating Mechanical Power Presses.

**DATES:** Comments must be submitted (postmarked, sent, or received) by September 24, 2021.

#### **ADDRESSES:**

*Electronically:* You may submit comments, including attachments, electronically at <http://www.regulations.gov>, the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Docket:* To read or download comments or other material in the docket, go to <http://www.regulations.gov>. Documents in the docket are listed in the <http://www.regulations.gov> index; however,

some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

*Instructions:* All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (OSHA-2012-0017). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. For further information on submitting comments, see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

#### **FOR FURTHER INFORMATION CONTACT:**

Theda Kenney or Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693-2222.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA-95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

In the event that a worker is injured while operating a mechanical power

press, 29 CFR 1910.217(g) requires the employer to report, within 30 days of the occurrence, all point-of-operation injuries to the operators or other employees to either the Director of the Directorate of Standards and Guidance at OSHA, U.S. Department of Labor, Washington, DC 20210 or electronically at <http://www.osha.gov/pls/oshaweb/mechanical.html>; or to the State agency administering a plan approved by the Assistant Secretary of Labor for Occupational Safety and Health. This information includes the employer's and worker's name(s), workplace address and location; injury sustained; task being performed when the injury occurred; number of operators required for the operation and the number of operators provided with controls and safeguards; cause of the incident; type of clutch, safeguard(s), and feeding method(s) used; and means used to actuate the press stroke. These reports are a source of up-to-date information on power press machines. Specifically, this information identifies the equipment used and conditions associated with these injuries.

OSHA's Mechanical Power Press injury reporting requirement at 1910.217(g) is a separate injury reporting requirement from OSHA's severe injury reporting requirements which are part of 1904.39. Under 1904.39, employers must, within 24 hours, report to OSHA any work-related injury requiring hospitalization as well as work-related incidents resulting in an amputation or loss of an eye. The Mechanical Power Press Standard requires employers to report all injuries involving operation of a power press to OSHA or an appropriate state agency within 30 days. Injuries that must be reported under 1910.217(g) include those that are also reportable under 1904.39 as well as those that are recordable under the recordkeeping standard (29 CFR 1904).

##### **II. Special Issues for Comment**

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply. For example, by using automated or other

technological information collection and transmission techniques.

### III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirement contained in the Standard on Reports of Injuries to Employees Operating Mechanical Power Presses (29 CFR 1910.217(g)). The agency is requesting an adjustment decrease in the number of burden hours from 400 to 390, a total reduction of 10 burden hours. The decrease is due to a decrease in the estimated number of injury reports caused by mechanical power presses (from 1,190 to 1,170).

*Type of Review:* Extension of a currently approved collection.

*Title:* Reports of Injuries to Employees Operating Mechanical Power Presses (29 CFR 1910.217(g)).

*OMB Control Number:* 1218-0070.

*Affected Public:* Business or other for-profits.

*Number of Respondents:* 1,170.

*Frequency of Responses:* On occasion.

*Average Time per Response:* Various.

*Estimated Total Burden Hours:* 390.

*Estimated Cost (Operation and Maintenance):* \$0.

### IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows:

(1) Electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVID-19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA-2012-0017). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as their social security number and date of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download from this website.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link. Contact the OSHA Docket Office at (202) 693-2350, (TTY) (877) 889 5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

### V. Authority and Signature

James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1-2012 (77 FR 3912).

Signed at Washington, DC, on July 19, 2021.

**James S. Frederick,**

*Acting Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2021-15844 Filed 7-23-21; 8:45 am]

**BILLING CODE 4510-26-P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. OSHA-2019-0010]

#### Beryllium Standards for General Industry; Extension for the Office of Management and Budget's (OMB) Approval of the Information Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Beryllium Standards for General Industry.

**DATES:** Comments must be submitted (postmarked, sent, or received) by September 24, 2021.

### ADDRESSES:

*Electronically:* You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Docket:* To read or download comments or other material in the docket, go to <http://www.regulations.gov>. Documents in the docket are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

*Instructions:* All submissions must include the agency name and OSHA docket number (OSHA-2019-0010) for the Information Collection Request (ICR). All comments, including any personal information you provide such as social security numbers and date of birth, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments, see the "Public Participation" heading in the section of this notice titled

### SUPPLEMENTARY INFORMATION.

#### FOR FURTHER INFORMATION CONTACT:

Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693-2222.

### SUPPLEMENTARY INFORMATION:

#### I. Background

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the

causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

This ICR is based on the 2017 final rule for Beryllium which includes general industry, construction, and maritime. Subsequently, the agency has proposed revisions to the beryllium standards. OSHA proposed revisions to the beryllium general industry standard in December 2018 (83 FR 63746) titled "Occupational Exposure to Beryllium in General Industry," and to the beryllium construction and shipyard standards in October 2019 (84 FR 53902) titled "Occupational Exposure to Beryllium in Construction and Shipyard Sectors." The agency is planning to finalize the beryllium standards in two separate rulemakings in the coming months. The modification and update of these beryllium standards will clarify the provisions contained in the 2017 general industry standard and will better tailor the construction and shipyard standards to address the particular operations in these sectors involving exposure to beryllium. These two beryllium final rules contain information collection requirements that will have an impact on this ICR when they are published.

The information collection requirements specified by the beryllium standards for general industry helps protect workers from harmful elements when exposed to permissible exposure limits of beryllium and beryllium compounds in the workplace. The information collection requirements in the 2017 Standards involve the following elements of the standard.

Paragraph (d)(2) contains the performance options where the employer must assess the 8-hour TWA exposure and the 15-minute short-term exposure for each employee on the basis of any combination of air monitoring data and objective data sufficient to accurately characterize airborne exposure to beryllium. Employers do not have to conduct initial exposure monitoring if they rely on objective data that would satisfy the exposure assessment requirements contained in this standard. Paragraph (d)(3) says the employer must perform initial monitoring to assess the 8-hour TWA exposure for each employee on the basis of one or more personal breathing zone air samples that reflect the airborne exposure of employees on each shift, for each job classification, and in each work area and the employer is required to do periodic monitoring when the most recent exposure monitoring indicates that airborne exposure is at or above the action level but at or below the TWA PEL, the employer must repeat such

monitoring within six months of the most recent monitoring. Paragraph (d)(4) requires the employer to reassess airborne exposure whenever a change in the production, process, control equipment, personnel, or work practices may reasonably be expected to result in new or additional airborne exposure at or above the action level or STEL, or when the employer has any reason to believe that new or additional airborne exposure at or above the action level or STEL has occurred.

In paragraph (f)(1)(i) the employer is required to establish, implement, and maintain a written exposure control plan and what information and procedures are included in the plan. Paragraph (f)(1)(ii) requires the employer to review and evaluate the effectiveness of each written exposure control plan at least annually and update it, as necessary. Also, in paragraph (f)(1)(iii) the employer must make a copy of the written exposure control plan accessible to each employee who is, or can reasonably be expected to be, exposed to airborne beryllium in accordance with OSHA's Access to Employee Exposure and Medical Records (Records Access) standard (29 CFR 1910.1020(e)).

Paragraph (g)(2) requires the employer to provide respiratory protection for the selection and use of respirators, medical evaluations of employees required to use respirators, respirator fit testing procedures for tight-fitting respirators and procedures for proper use of respirators in routine and reasonably foreseeable emergency situations.

Paragraph (h)(3)(iii) requires the employer to inform in writing the persons or the business entities who launder, clean, or repair the personal protective clothing or equipment required by this standard of the potentially harmful effects of airborne exposure to and dermal contact with beryllium and that the personal protective clothing and equipment must be handled in accordance with this standard. This provision is intended to reduce exposure to beryllium for employees handling beryllium-contaminated materials by providing employers and employees handling these materials the information necessary to protect employees from beryllium exposure.

Under paragraph (k)(1) the employer is required to make medical surveillance available at no cost to the employee, and at a reasonable time and place, to each employee who: (A) Is reasonably expected to be exposed at or above the action level for more than 30 days per year; (B) shows signs or symptoms of chronic beryllium disease (CBD) or

other beryllium-related health effects; (C) is exposed to beryllium during an emergency; or (D) most recent written medical opinion required by paragraph (k)(6) or (k)(7) recommends periodic medical surveillance.

In paragraph (k)(5) of medical surveillance, the employer is required to ensure that the employee receives a written medical report from the licensed physician within 45 days of the examination (including any follow-up beryllium lymphocyte proliferation test (BeLPT) required under paragraph (k)(3)(ii)(E) of this standard) and that the physician or other licensed health care professional (PLHCP) explains the results of the examination to the employee. The requirement for a written medical report ensures that the employee receives a record of all findings. In paragraph (k)(6) of medical surveillance the employer is required to obtain a written medical opinion from the licensed physician within 45 days of the medical examination and what must be contained in the written medical opinion. Under paragraph (k)(7) of medical surveillance, when being referred to the CBD Diagnostic Center, the employer is required to provide an evaluation at no cost to the employee at a CBD diagnostic center that is mutually agreed upon by the employer and the employee. The examination must be provided within 30 days of: (A) The employer's receipt of a physician's written medical opinion to the employer that recommends referral to a CBD diagnostic center; or (B) the employee presenting to the employer a physician's written medical report indicating that the employee has been confirmed positive or diagnosed with CBD, or recommending referral to a CBD diagnostic center. The employer must ensure that the employee receives all written medical reports from the CBD diagnostic center that contains all the information required in paragraph (k)(5)(i), (ii), (iv), and (v) and that the PLHCP explains the results of the examination to the employee within 30 days of the examination. Also, the employer is required to obtain a written medical opinion from the CBD diagnostic center within 30 days of the medical examination and ensure that each employee receives a copy of the written medical opinion from the CBD diagnostic center within 30 days of any medical examination performed for that employee.

In paragraph (m)(2) the employer is required to post warning signs at each approach to a regulated area. Paragraph (m)(3) requires the employer to label each bag and container of clothing,

equipment, and materials contaminated with beryllium.

In paragraph (m)(4)(iv) the employer is required to make a copy of this standard and its appendices readily available at no cost to each employee and designated employee representative(s).

Under paragraph (n) recordkeeping, the employer is required to make and maintain records for the air monitoring data, objective data, medical surveillance, and training. Access to these records must be made available upon request for examination and copying to the Assistant Secretary, the Director, each employee, and each employee's designated representative(s) in accordance the Records Access standard (29 CFR 1910.1020).

## II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

## III. Proposed Actions

OSHA is requesting a program change decrease from 194,261 hours to 82,822 hours, a difference of 111,439 hours in the burden. This is a revision to the currently approved Beryllium Information Collections for the general industry (29 CFR part 1910.1024) by removing those collection of information requirements contained in the construction and shipyard sectors from this ICR. OSHA is proposing that the burden hours and cost for maintenance and material remain the same. The agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

*Type of Review:* Extension of a currently approved collection.

*Title:* Beryllium Standards for General Industry (29 CFR part 1910.1024).

*OMB Number:* 1218-0267.

*Affected Public:* Business or other for-profits; Federal Government; State, Local, or Tribal Government.

*Number of Respondents:* 4,538.

*Frequency of Response:* On occasion.

*Average Time per Response:* Various.

*Estimated Total Burden Hours:* 82,822.

*Estimated Cost (Operation and Maintenance):* \$18,741,540.

## IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows:

(1) Electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVID-19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA-2019-0010). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link. Contact the OSHA Docket Office at (202) 693-2350, (TTY) (877) 889-5627 for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

## V. Authority and Signature

James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1-2012 (77 FR 3912).

Signed at Washington, DC, on July 19, 2021.

**James S. Frederick,**

*Acting Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2021-15845 Filed 7-23-21; 8:45 am]

**BILLING CODE 4510-26-P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: (21-045)]

### Name of Information Collection: NASA Property in the Custodian of Contractors

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of information collection.

**SUMMARY:** The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

**DATES:** Comments are due by September 24, 2021.

**ADDRESSES:** Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this information collection by selecting "Currently under 60-day Review—Open for Public Comments" or by using the search function.

### FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202-358-2375 or email [claire.a.little@nasa.gov](mailto:claire.a.little@nasa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Abstract

To ensure accurate reporting of Government-owned, contractor-held property on the financial statements and to provide information necessary for effective property management in accordance with FAR Part 45, NASA

obtains summary data annually from the official Government property records maintained by its contractors. The information is submitted via the NASA Form 1018, at the end of each fiscal year. Additional information submitted to approve the accuracy of the contractor property management system compliance is submitted via NASA Form 1019, at the beginning of awards with NASA property in the hands of contractors; and same information gathered by Federal agencies assisting NASA according to risk matrix. Information for property management system in accordance with FAR Part 45, NASA is the agency responsible for contract administration shall conduct an analysis of the contractor's property management policies, procedures, practices, and systems.

## II. Methods of Collection

Electronic.

## III. Data

*Title:* NASA Property in the Custody of Contractors.

*OMB Number:* 2700-0017.

*Type of review:* Renewal of a previously approved information collection.

*Affected Public:* Business or other for-profit and not-for-profit institutions.

*Estimated Annual Number of Activities:* 1,200.

*Estimated Number of Respondents per Activity:* 1.

Annual Responses: 1,200.

*Estimated Time per Response:* 1.5 hours.

*Estimated Total Annual Burden Hours:* 1,800.

*Estimated Total Annual Cost:* \$36,000.

## IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection.

They will also become a matter of public record.

**Lori Parker,**

*NASA PRA Clearance Officer.*

[FR Doc. 2021-15828 Filed 7-23-21; 8:45 am]

**BILLING CODE 7510-13-P**

## NATIONAL CREDIT UNION ADMINISTRATION

### Sunshine Act Meetings

**TIME AND DATE:** 10:00 a.m., Thursday, July 22, 2021.

**PLACE:** Due to the COVID-19 Pandemic, the meeting will be open to the public via live webcast only. Visit the agency's homepage ([www.ncua.gov](http://www.ncua.gov)) and access the provided webcast link.

**STATUS:** This meeting will be open to the public.

#### MATTERS TO BE CONSIDERED:

1. Request for Information and Comment, Digital Assets and Related Technologies.

2. NCUA Rules and Regulations, Complex Credit Union Leverage Ratio.

**CONTACT PERSON FOR MORE INFORMATION:** Melane Conyers-Ausbrooks, Secretary of the Board, Telephone: 703-518-6304.

**Melane Conyers-Ausbrooks,**  
*Secretary of the Board.*

[FR Doc. 2021-15908 Filed 7-22-21; 11:15 am]

**BILLING CODE 7535-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-389; NRC-2021-0138]

**Florida Power and Light Company; St. Lucie Plant, Unit No. 2**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemption; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC, or the Commission) has issued an exemption in response to a March 17, 2021, request from Florida Power and Light (FPL or the licensee). The approval permits a one-time schedular exemption to allow submittal of a license renewal application for the St. Lucie, Unit No. 2 facility earlier than 20 years before the expiration of the operating license, which expires on April 6, 2043.

**DATES:** The exemption was issued on July 20, 2021.

**ADDRESSES:** Please refer to Docket ID NRC-2021-0138 when contacting the NRC about the availability of information regarding this document.

You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2021-0138. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: [Stacy.Schumann@nrc.gov](mailto:Stacy.Schumann@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION**

**CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the ADAMS public document collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced.

- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Michael Mahoney, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3867; email: [Michael.Mahoney@nrc.gov](mailto:Michael.Mahoney@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The text of the exemption is attached.

Dated: July 20, 2021.

For the Nuclear Regulatory Commission.

**Michael Mahoney,**

*Project Manager, Plant Licensing Branch 2-2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

#### Attachment—Exemption.

#### Nuclear Regulatory Commission

*Docket No. 50-389*

Florida Power & Light Company, St. Lucie Plant, Unit No. 2, Exemption

#### I. Background

Florida Power & Light Company (FPL, the licensee) is the holder of Renewed Facility Operating License No. NPF-16, which authorizes operation of the St. Lucie Plant, Unit 2 (St. Lucie 2), a pressurized water reactor. St. Lucie

Plant, Unit 1, is collocated with St. Lucie 2 in Jensen Beach, Florida; however, this exemption is applicable only to St. Lucie 2. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, or the Commission) now or hereafter in effect. The current renewed facility operating license for St. Lucie 2 expires on April 6, 2043.

## II. Request/Action

Part 54 of title 10 of the *Code of Federal Regulations* (10 CFR) “Requirements for Renewal of Operating Licenses for Nuclear Power Plants,” contains the requirements for the renewal of operating licenses for nuclear power plants. Section 54.17(c) of 10 CFR states that an application for a renewed license may not be submitted to the Commission earlier than 20 years before the expiration of the operating license currently in effect.

The licensee has informed the NRC that it plans to submit the St. Lucie Plant, Unit Nos. 1 and 2 subsequent license renewal application (SLRA) earlier than 20 years before expiration of the renewed facility operating license for St. Lucie 2. Based on the requirement in 10 CFR 54.17(c), a subsequent license renewal (SLR) application for St. Lucie 2 cannot be filed prior to April 6, 2023 without an exemption. As a result, by letter dated March 17, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21076A315), pursuant to 10 CFR 54.15 and 10 CFR 50.12, FPL requested a one-time exemption from the 10 CFR 54.17(c) schedular requirement.

## III. Discussion

Under 10 CFR 54.15, exemptions from the requirements of part 54 are governed by regulations at 10 CFR 50.12. Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. However, an exemption will not be granted unless special circumstances are present as defined in 10 CFR 50.12(a)(2). In its application, FPL states that special circumstances, as described in 10 CFR 50.12(a)(2)(ii) apply to its request, which states that special circumstances are present when “Application of the regulation in the particular circumstances would not serve the

underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.”

### A. The Exemption Is Authorized by Law

The Commission’s basis for establishing the 20-year limit contained in 10 CFR 54.17(c) is discussed in the 1991 Statements of Consideration for 10 CFR part 54 (56 FR 64963). The limit was established to ensure that substantial operating experience was accumulated by a licensee before a renewal application is submitted such that any plant-specific concerns regarding aging would be disclosed. In amending the rule in 1995, the Commission indicated that it would consider plant-specific exemption requests by applicants who believe that sufficient information is available to justify applying for license renewal earlier than 20 years from expiration of the current license. The NRC staff has determined that granting the licensee’s proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission’s regulations. Therefore, the exemption is authorized by law.

### B. The Exemption Presents No Undue Risk to Public Health and Safety

FPL is seeking an exemption from the requirements of 10 CFR 54.17(c) for schedular relief, which would only relieve FPL of the schedular requirement to wait until April 6, 2023 to submit an SLRA for St. Lucie Unit 2. The action does not change the manner in which the plant operates and would maintain public health and safety, because no additional changes are made as a result of the action. FPL must still conduct all environmental reviews required by 10 CFR part 51 and all safety reviews and evaluations required by 10 CFR part 54 when preparing the SLRA for St. Lucie Units 1 and 2.

Pending final action on the SLR application, the NRC will continue to conduct all regulatory activities associated with licensing, inspection, and oversight, and will take whatever action may be necessary to ensure adequate protection of the public health and safety. This exemption does not affect NRC’s authority, applicable to all licenses, to modify, suspend, or revoke a license for cause, such as the identification of a serious safety concern. Therefore, the NRC finds that the action does not cause undue risk to public health and safety.

### C. The Exemption is Consistent With the Common Defense and Security

As discussed previously, the proposed exemption would only allow

a schedular exemption. This exemption does not change any site security features, procedures, staffing, or other security-related matters. Therefore, the NRC finds that the action is consistent with common defense and security.

### D. Special Circumstances

The regulation at 10 CFR 50.12(a)(2) lists special circumstances for which an exemption may be granted. Pursuant to the regulation, it is necessary for one of these special circumstances to be present in order for the NRC to consider granting an exemption request. As noted above, FPL stated that the special circumstance that applies to this exemption request is found in 10 CFR 50.12(a)(2)(ii), which states, “Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.”

In initially promulgating 10 CFR 54.17(c) in 1991, the Commission stated that the purpose of the 20-year time limit was “to ensure that substantial operating experience is accumulated by a licensee before it submits a renewal application,” such that any plant-specific concerns regarding aging would be disclosed (56 FR 64963). At that time, the Commission found that 20 years of operating experience provided a sufficient basis for license renewal applications. However, in issuing the amended Part 54 in 1995, the Commission indicated it would consider an exemption to this requirement if sufficient information was available on a plant-specific basis to justify submission of an application to renew a license before completion of 20 years of operation (60 FR 22488). FPL’s exemption request is consistent with the Commission’s intent to consider plant-specific requests and is permitted by 10 CFR 54.15.

The licensee stated that St. Lucie 2 is the sister unit to St. Lucie 1. The two units currently have a combined operating history of over 80 reactor-years, with Unit 1 having over 45 years and Unit 2 having over 37 years of operating experience. St. Lucie 1 operating experience is directly applicable to St. Lucie 2 since the two units are similar in design, operation, maintenance, use of operating experience, and environment.

According to the licensee, the materials of construction for St. Lucie 2 structures, systems, and components are typically identical or similar to those used for the corresponding St. Lucie 1 structures, systems, and components. The licensee specified that, because of the similarities between St. Lucie 1 and

2, personnel of the various plant organizations (e.g., Maintenance and Engineering) are typically assigned work activities on both units. Licensed operators at St. Lucie receive training on both units.

St. Lucie Unit 2 is physically located adjacent to Unit 1. As such, the external environments would be similar for both units. Internal environments for both units are also similar due to the similarity in plant design and operation.

The licensee stated that an administrative procedure is used by its entire nuclear fleet for the review and dissemination of operating experience obtained from both external and internal sources. This procedure requires screening of information for potential St. Lucie applicability; the information is received from such sources as the NRC (e.g., NRC Information Notices), industry resources, vendor reports/notices, and in-house operating experience. If an item is potentially applicable to St. Lucie, then the information item is addressed in the plant's Corrective Action Program.

Given the similarities between units, the NRC staff finds that the operating experience at Unit 1 is applicable to Unit 2 for purposes of the license renewal review. At the time of the exemption request, Unit 1 had achieved over 45 years of operating experience, which is applicable to Unit 2, and that Unit 2, itself, has over 37 years of operating experience. The NRC staff has determined that sufficient combined operating experience exists to satisfy the intent of 10 CFR 54.17(c), and the application of the regulation in this case is not necessary to achieve the underlying purpose of the rule. Therefore, the NRC staff finds that FPL's request meets the special circumstance requirement in 10 CFR 50.12(a)(2)(ii).

#### *E. Environmental Considerations*

The NRC's approval of an exemption to scheduling requirements belongs to a category of actions that the NRC, by rule or regulation, has declared to be a categorical exclusion to environmental analysis, after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment. Specifically, the exemption is categorically excluded from further analysis under 10 CFR 51.22(c)(25)(vi)(G).

Under 10 CFR 51.22(c)(25), the granting of exemption from the requirements of any regulation of chapter 10 is a categorical exclusion provided that (i) there is no significant hazards consideration; (ii) there is no significant change in the types or

significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve certain categories of requirements, including scheduling requirements. The basis for NRC's determination is provided in the following evaluation of the requirements in 10 CFR 51.22(c)(25)(i)-(vi).

#### *Requirements in 10 CFR 51.22(c)(25)(i)*

To qualify for a categorical exclusion under 10 CFR 51.22(c)(25)(i), the exemption must involve a no significant hazards consideration. The criteria for making a no significant hazards consideration determination are found in 10 CFR 50.92(c). The NRC staff has determined that granting the exemption request involves no significant hazards consideration because allowing a one-time exemption from the 10 CFR 54.17(c) schedular requirement does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Therefore, the requirements of 10 CFR 51.22(c)(25)(i) are met.

#### *Requirements in 10 CFR 51.22(c)(25)(ii) and (iii)*

The exemption constitutes a change to a schedular requirement which is administrative in nature, and does not involve any change in the types or significant increase in the amounts of any effluents that may be released offsite and does not contribute to any significant increase in individual or cumulative occupational or public radiation exposure. Therefore, the requirements of 10 CFR 51.22(c)(25)(ii) and (iii) are met.

#### *Requirements in 10 CFR 51.22(c)(25)(iv)*

The exempted regulation is not associated with construction, and the exemption does not propose any changes to the facility or the site, does not alter the site, and does not change the operation of the site. Therefore, the requirements of 10 CFR 51.22(c)(25)(iv) are met because there is no significant construction impact.

#### *Requirements in 10 CFR 51.22(c)(25)(v)*

The exemption constitutes a change to a schedular requirement which is administrative in nature and does not impact the probability or consequences of accidents. Thus, there is no significant increase in the potential for, or consequences from, a radiological accident. Therefore, the requirements of 10 CFR 51.22(c)(25)(v) are met.

#### *Requirements in 10 CFR 51.22(c)(25)(vi)*

To qualify for a categorical exclusion under 10 CFR 51.22(c)(25)(vi)(G), the exemption must involve scheduling requirements. The requested exemption involves an exemption from scheduling requirements because it would allow FPL to submit an SLRA for St. Lucie Unit 2 earlier than 20 years before the expiration of its current license. Therefore, the requirements of 10 CFR 51.22(c)(25)(vi) are met.

Based on the above, the NRC staff concludes that the proposed exemption meets the eligibility criteria for a categorical exclusion set forth in 10 CFR 51.22(c)(25). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

#### **IV. Conclusions**

The NRC has determined that, pursuant to 10 CFR 54.15 and 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances, as defined in 10 CFR 50.12(a)(2), are present. Therefore, the NRC hereby grants the licensee a one-time exemption for St. Lucie 2, from the requirements of 10 CFR 54.17(c), to allow the submittal of a subsequent license renewal application earlier than 20 years before the expiration of the St. Lucie 2 license that is currently in effect.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of July, 2021.

For the Nuclear Regulatory Commission.  
/RA/

Bo M. Pham, Director,

Division of Operating Reactor Licensing,  
Office of Nuclear Reactor Regulation.

[FR Doc. 2021-15823 Filed 7-23-21; 8:45 am]

**BILLING CODE 7590-01-P**

**NUCLEAR REGULATORY COMMISSION**

[NRC-2021-0001]

**Sunshine Act Meetings**

**TIME AND DATE:** Weeks of July 26, August 2, 9, 16, 23, 30, 2021.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public.

**MATTERS TO BE CONSIDERED:****Week of July 26, 2021**

There are no meetings scheduled for the week of July 26, 2021.

**Week of August 2, 2021—Tentative**

There are no meetings scheduled for the week of August 2, 2021.

**Week of August 9, 2021—Tentative**

There are no meetings scheduled for the week of August 9, 2021.

**Week of August 16, 2021—Tentative**

There are no meetings scheduled for the week of August 16, 2021.

**Week of August 23, 2021—Tentative**

There are no meetings scheduled for the week of August 23, 2021.

**Week of August 30, 2021—Tentative**

There are no meetings scheduled for the week of August 30, 2021.

**CONTACT PERSON FOR MORE INFORMATION:**

For more information or to verify the status of meetings, contact Wesley Held at 301-287-3591 or via email at [Wesley.Held@nrc.gov](mailto:Wesley.Held@nrc.gov). The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301-287-0745, by videophone at 240-428-3217, or by email at [Anne.Silk@nrc.gov](mailto:Anne.Silk@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the

Secretary, Washington, DC 20555, at 301-415-1969, or by email at [Wendy.Moore@nrc.gov](mailto:Wendy.Moore@nrc.gov).

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: July 21, 2021.

For the Nuclear Regulatory Commission.

**Wesley W. Held,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2021-15894 Filed 7-21-21; 4:15 pm]

**BILLING CODE 7590-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-92454; File No. SR-NYSEAMER-2021-33]

**Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust<sup>SM</sup> Series ("QQQ") ETF Trust**

July 20, 2021.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on July 12, 2021, NYSE American LLC ("NYSE American" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Rule 903 to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Options Series Program on the Invesco QQQ Trust; Series ("QQQ") ETF Trust. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

**1. Purpose**

The purpose of this filing is to amend Rule 903, Series of Options Open for Trading, to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Options Series Program ("Program") on QQQ.

A Short Term Options Series is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration.<sup>4</sup> The Exchange is proposing to amend Rule 903 Commentary .10 (f) to permit the listing of options series that expire on Mondays and Wednesdays in QQQ.

**Monday Expirations**

As proposed, with respect to Monday QQQ Expirations within Rule 903 Commentary .10, the Exchange may open for trading on any Friday or Monday that is a business day series of options on QQQ to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series on the same class expire ("Monday QQQ Expirations"), provided that Monday QQQ Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Monday QQQ Expirations at one time; the

<sup>4</sup> See NYSE American Rule 900.2NY 50. Short Term Option Series.

Exchange may have no more than a total of five Monday QQQ Expirations.<sup>5</sup>

#### Wednesday Expirations

As proposed, with respect to Wednesday QQQ Expirations within Rule 903 Commentary .10, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on QQQ to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series on the same class expire (“Wednesday QQQ Expirations”). The Exchange may list up to five consecutive Wednesday QQQ Expirations at one time; the Exchange may have no more than a total of five Wednesday QQQ Expirations.

#### Monday and Wednesday Expirations

The interval between strike prices for the proposed Monday and Wednesday QQQ Expirations will be the same as those for the current Short Term Option Series for Wednesday and Friday expirations applicable to the Program.<sup>6</sup> Specifically, the Monday and Wednesday QQQ Expirations will have a \$0.50 strike interval minimum.<sup>7</sup> As is the case with other equity options series listed pursuant to the Program, the Monday and Wednesday QQQ Expirations series will be P.M. settled.

Pursuant to Rule 900.2NY,<sup>8</sup> with respect to the Program, if Monday is not a business day the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. Pursuant to Rule 900.2NY<sup>9</sup> a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, e.g., Tuesday of that week, if the Wednesday is not a business day. For purposes of QQQ, however, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day, e.g., the previous Friday,

since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. Nasdaq PHLX LLC (“Phlx”) uses the same procedure for QQQ with Monday and Wednesday expirations.<sup>10</sup> Nasdaq Phlx<sup>11</sup> and Nasdaq ISE, LLC (“ISE”)<sup>12</sup> also use the same procedure for options on the Nasdaq-100® (“NDX”) with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Programs, respectively. Cboe Exchange, Inc. (“Cboe”) uses the same procedure for options on the S&P500 index (“SPX”) with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.<sup>13</sup>

Currently, for each option class eligible for participation in the Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.<sup>14</sup> The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term options rules; the Exchange may list these additional series that are listed by other exchanges.<sup>15</sup> This thirty (30) series restriction would apply to Monday and Wednesday QQQ Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list QQQ options expiring on Mondays and Wednesdays.

Finally, the Exchange is amending Rule 903(h), which addresses the listing of Short Term Options Series that expire in the same week as monthly or quarterly options series. Currently, that rule states that no Short Term Option Series may expire in the same week in which monthly option series on the same class expire (with the exception of Monday and Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Options Series on the same

class.<sup>16</sup> As with Monday and Wednesday SPY Expirations, the Exchange is proposing to permit Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class. The Exchange believes that it is reasonable to extend this exemption to Monday and Wednesday QQQ Expirations because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday and Wednesday QQQ Expirations for one week every month because there was a monthly QQQ expiration on the Friday of that week would create investor confusion.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Monday and Wednesday QQQ expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY and has not experienced any market disruptions nor issues with capacity. The Exchange currently has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY.

Similar to SPY, the introduction of Monday and Wednesday QQQ Expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that Monday and Wednesday QQQ Expirations will allow market participants to purchase QQQ based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

## 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>17</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>18</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in

<sup>5</sup> The Exchange proposes to make a clarifying change to Rule 903 Commentary .10(f) to make clear that the Exchange may have no more than a total of five each of Wednesday SPY Expirations and Wednesday QQQ Expirations and a total of five each of Monday SPY Expirations and Monday QQQ Expirations. The Exchange also proposes to make a non-substantive change to add the word “business” before “day” in the first sentence of Rule 903 Commentary .10(f).

<sup>6</sup> See NYSE American Rule 903 Commentary .10(f).

<sup>7</sup> See NYSE American Rule 903 Commentary .10(d).

<sup>8</sup> Rule 900.2NY 50. Definition of “Short Term Option Series.”

<sup>9</sup> *Id.*

<sup>10</sup> See Securities Exchange Act Release No. 91238 (March 2, 2021), 86 FR 13404 (March 8, 2021) (SR-Phlx-2021-10).

<sup>11</sup> See Phlx Options 4A, Section 12(b)(5).

<sup>12</sup> See ISE Supplementary Material .07 to Options 4A, Section 12.

<sup>13</sup> See Cboe Rule 4.13(e)(1) “. . . If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.”

<sup>14</sup> See NYSE American Rule 903 Commentary .10.

<sup>15</sup> *Id.*

<sup>16</sup> See NYSE American Rule 903(h).

<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is intended to provide the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Program has been successful to date and that Monday and Wednesday QQQ Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday and Wednesday QQQ Expirations should create greater trading and hedging opportunities and flexibility, and will provide customers with the ability to tailor their investment objectives more effectively. The Exchange currently lists Monday and Wednesday SPY Expirations.<sup>19</sup> Also, Cboe<sup>20</sup> currently permits Monday and Wednesday expirations for other options with a weekly expiration, such as options on the SPX pursuant to its Nonstandard Expirations Pilot Program and Phlx<sup>21</sup> and ISE<sup>22</sup> currently permit Monday and Wednesday expirations for other options with a weekly expiration on NDX pursuant to its Nonstandard Expirations Pilot Programs, respectively.

With the exception of Monday expiration series that are scheduled to expire on a holiday, there are no material differences in the treatment of Monday and Wednesday QQQ Expirations for Short Term Option Series. The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are currently treated in this manner.<sup>23</sup> Cboe<sup>24</sup> uses the same procedure for SPX

options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx<sup>25</sup> and ISE<sup>26</sup> for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

Given the similarities between Monday and Wednesday SPY Expirations and the proposed Monday and Wednesday QQQ Expirations, the Exchange believes that applying the provisions in NYSE American Rule 903 Commentary .10 that currently apply to Monday and Wednesday SPY Expirations to Monday and Wednesday QQQ Expirations is justified. For example, the Exchange believes that allowing Monday and Wednesday QQQ Expirations and monthly QQQ expirations in the same week will benefit investors and minimize investor confusion by providing Monday and Wednesday QQQ Expirations in a continuous and uniform manner. The Exchange also believes that it is appropriate to amend NYSE Arca Rule 903(h) to clarify that no Short Term Option Series may expire on the same day as an expiration of Quarterly Option Series on the same class, same as SPY.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday QQQ Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Monday and Wednesday QQQ Expirations.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that having Monday and Wednesday QQQ Expirations is not a novel proposal, as Monday and Wednesday SPY Expirations are currently listed on the Exchange.<sup>27</sup> Cboe<sup>28</sup> uses the same procedure for SPX options with Monday expirations that

are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx<sup>29</sup> and ISE<sup>30</sup> for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Monday and Wednesday expirations.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>31</sup> and Rule 19b-4(f)(6) thereunder.<sup>32</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>33</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>34</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it

<sup>29</sup> *Supra* note 11.

<sup>30</sup> *Supra* note 12.

<sup>31</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>32</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>33</sup> 17 CFR 240.19b-4(f)(6).

<sup>34</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>19</sup> *Supra* note 14.

<sup>20</sup> *Supra* note 13.

<sup>21</sup> *Supra* note 11.

<sup>22</sup> *Supra* note 12.

<sup>23</sup> *Supra* note 14.

<sup>24</sup> *Supra* note 13.

<sup>25</sup> *Supra* note 11.

<sup>26</sup> *Supra* note 12.

<sup>27</sup> *Supra* note 14.

<sup>28</sup> *Supra* note 13.

recently approved Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.<sup>35</sup> The Exchange has stated that waiver of the operative delay is consistent with the protection of investors and the public interest as it would encourage fair competition among exchanges by allowing the Exchange to compete effectively with Phlx by having the ability to list and trade the same Monday and Wednesday QQQ Expirations that Phlx is able to list and trade. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.<sup>36</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAMER-2021-33 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange

<sup>35</sup> See Securities Exchange Act Release No. 91614 (April 20, 2021), 86 FR 22082 (April 26, 2021) (SR-Phlx-2021-10).

<sup>36</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEAMER-2021-33. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NYSEAMER-2021-33, and should be submitted on or before August 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>37</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2021-15819 Filed 7-23-21; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92452; File No. SR-PEARL-2021-34]

#### Self-Regulatory Organizations; MIAx PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAx Pearl Equities Fee Schedule

July 20, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

<sup>37</sup> 17 CFR 200.30-3(a)(12).

("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 12, 2021, MIAx PEARL, LLC ("MIAx Pearl" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the fee schedule applicable for MIAx Pearl Equities, an equities trading facility of the Exchange (the "Fee Schedule")<sup>3</sup> to update the Standard Rates table and the Liquidity Indicator Codes and Associated Fees table.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings/pearl> at MIAx Pearl's principal office, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Fee Schedule to (i) make conforming changes to the rates of certain liquidity indicator codes that remove liquidity in the Liquidity Indicator Codes and Associated Fees table; (ii) amend the Standard Rates table to increase the rebate for Non-Displayed Orders that Add Liquidity from \$0.0022 to \$0.0025; and (iii) adopt four Retail Order liquidity indicator codes and associated fees and rebates for each.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Exchange Rule 1901.

The Exchange initially filed this proposal on July 1, 2021 (SR-PEARL-2021-29) and withdrew such filing on July 12, 2021. The Exchange proposes to implement the fee change effective July 12, 2021.

#### Conforming Changes to Liquidity Indicator Codes That Remove Liquidity

On March 25, 2021, the Exchange filed its proposal to add liquidity indicator codes to its Fee Schedule.<sup>4</sup> Due to the technological changes associated with the proposed liquidity indicator codes, the Exchange noted that it would issue a trading alert publicly announcing the implementation date when the liquidity indicator codes would be available and that the Exchange anticipated the implementation date to be in either the second or third quarter of 2021.<sup>5</sup> In Fee Filing No. 1 the Exchange added new Section (1)(b) to the Fee Schedule, titled “Liquidity Indicator Codes and Associated Fees,” showing the liquidity indicator codes, the description of each, and the then current applicable fee or rebate. Specifically, in that filing the following liquidity indicator codes were described as follows:

- Liquidity indicator code RA would be applied to a Displayed order<sup>6</sup> that removes liquidity in Tape A securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RA would be subject to the existing fee of \$0.0028 per share in securities priced at or above \$1.00 and 0.05% of the transaction’s dollar value in securities priced below \$1.00.

- Liquidity indicator code RB would be applied to a Displayed order that removes liquidity in Tape B securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RB would be subject to the existing fee of \$0.0027 per share in securities priced at or above \$1.00 and 0.05% of the transaction’s dollar value in securities priced below \$1.00.

- Liquidity indicator code RC would be applied to a Displayed order that removes liquidity in Tape C securities. The Liquidity Indicator Code and Associated Fees table would specify that

orders that yield liquidity indicator code RC would be subject to the existing fee of \$0.0028 per share in securities priced at or above \$1.00 and 0.05% of the transaction’s dollar value in securities priced below \$1.00.

- Liquidity indicator code Ra would be applied to a Non-Displayed order that removes liquidity in Tape A securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ra would be subject to the existing fee of \$0.0028 per share in securities priced at or above \$1.00 and 0.05% of the transaction’s dollar value in securities priced below \$1.00.

- Liquidity indicator code Rb would be applied to a Non-Displayed order that removes liquidity in Tape B securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rb would be subject to the existing fee of \$0.0027 per share in securities priced at or above \$1.00 and 0.05% of the transaction’s dollar value in securities priced below \$1.00.

- Liquidity indicator code Rc would be applied to a Non-Displayed order that removes liquidity in Tape C securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rc would be subject to the existing fee of \$0.0028 per share in securities priced at or above \$1.00 and 0.05% of the transaction’s dollar value in securities priced below \$1.00.

Subsequently, on March 31, 2021, the Exchange filed its proposal to universally decrease the fee to remove liquidity in Tapes A, B, and C securities priced at or above \$1.00 to \$0.0025 per share.<sup>7</sup> However, as the liquidity indicator codes had not yet been implemented on the Exchange, the Liquidity Indicator Codes and Associated Fees table was not updated accordingly. On May 27, 2021, the Exchange issued a Trader Alert indicating that new supporting documentation for Liquidity Indicator Codes was available and that the new codes were targeted for use in production on July 1, 2021.<sup>8</sup>

The Exchange now proposes to amend the Liquidity Indicator Codes and Associated Fees table for codes RA, RB,

RC, Ra, Rb and Rc to reflect the take rate change associated with Fee Filing No. 2, which established the current fee of \$0.0025 per share for orders in Tapes A, B, and C securities that remove liquidity in securities priced at or above \$1.00.<sup>9</sup> The purpose of this change is to update the Liquidity Indicator Code and Associated Fees table to reflect the rate that is currently in effect and to provide greater clarity to Equity Members<sup>10</sup> as to which fee may ultimately be applied to their execution as the use of liquidity indicator codes was implemented on the Exchange on July 1, 2021.

#### Amend the Standard Rate Rebate for Non-Displayed Orders That Add Liquidity

The Exchange proposes to amend the Standard Rates table and the Liquidity Indicator Codes and Associated Fees table to increase the rebate provided for Non-Displayed Orders that Add Liquidity from \$0.0022 to \$0.0025 per share in securities priced at or above \$1.00.

- Liquidity indicator code Aa would be applied to a Non-Displayed Order that adds liquidity in Tape A securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Aa would receive a rebate of \$0.0025 per share in securities priced at or above \$1.00 and 0.05% of the transaction’s dollar value in securities priced below \$1.00.

- Liquidity indicator code Ab would be applied to a Non-Displayed Order that adds liquidity in Tape B securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ab would receive a rebate of \$0.0025 per share in securities priced at or above \$1.00 and 0.05% of the transaction’s dollar value in securities priced below \$1.00.

- Liquidity indicator code Ac would be applied to a Non-Displayed Order that adds liquidity in Tape C securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ac would receive a rebate of \$0.0025 per share in securities priced at or above \$1.00 and 0.05% of the transaction’s dollar value in securities priced below \$1.00.

The purpose for this proposed change is for business and competitive reasons.

<sup>4</sup> See Securities Exchange Act Release No. 91496 (April 7, 2021), 86 FR 19303 (April 13, 2021) (SR-PEARL-2021-10) (“Fee Filing No. 1”).

<sup>5</sup> See *id.*

<sup>6</sup> The Exchange notes that, unlike orders that add liquidity, whether an order that removes liquidity is either Displayed or Non-Displayed does not impact the applicable rate. The Exchange proposes to provide separate liquidity indicator codes based on whether the order that removes liquidity was Displayed or Non-Displayed as a convenience to Equity Members.

<sup>7</sup> See Securities Exchange Act Release No. 91497 (April 7, 2021), 86 FR 19290 (April 13, 2021) (SR-PEARL-2021-15) (“Fee Filing No. 2”). The fee for orders that remove liquidity in Tapes A, B, and C securities priced below \$1.00 were not changed.

<sup>8</sup> See Trader Alert, MIAX Pearl Equities—2nd Reminder: Mandatory Specification Updates (May 27, 2021) available at <https://www.miaxoptions.com/alerts/2021/05/27/miax-pearl-equities-2nd-reminder-mandatory-interface-specification-updates>.

<sup>9</sup> The rates to remove liquidity in Tapes A, B, and C securities priced below \$1.00 remained unchanged. Therefore, liquidity indicator codes RA, RB, RC, Ra, Rb, and Rc reflect the correct rate.

<sup>10</sup> The term “Equity Member” is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

The Exchange believes that increasing the rebate for Adding Liquidity Non-Displayed Orders from \$0.0022 to \$0.0025 per share for securities priced at or above \$1.00 will encourage market participants to enter Non-Displayed Orders that add liquidity, thereby increasing liquidity and execution opportunities on the Exchange.

#### New Retail Order Liquidity Codes

Additionally, the Exchange proposes to adopt four Retail Order liquidity indicator codes; AR, Ar, RR, and Rr, to the Liquidity Indicator Codes and Associated Fees table as described below. The purpose of this change is for business and competitive reasons. The Exchange notes that the use of liquidity indicator codes is not unique to the Exchange and are currently utilized and described in the fee schedules of other equity exchanges.<sup>11</sup> The Exchange believes that adoption of these liquidity indicator codes and associated fees and rebates will further incentivize Equity Members to submit these types of orders to the Exchange, which will result in greater liquidity on the Exchange, thereby increasing execution opportunities on the Exchange.

- Liquidity indicator code AR would be applied to a Displayed Retail Order<sup>12</sup> that adds liquidity in Tape A, B, and C securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AR would receive a rebate of \$0.0037 per share in securities priced at or above \$1.00 and 0.05% of the transaction's dollar value in securities priced below \$1.00.

The Exchange notes that the proposed rebate is comparable to, and competitive with, the rebate provided by at least one other exchange for Retail Orders in securities priced at or above \$1.00 per share that add liquidity.<sup>13</sup>

- Liquidity indicator code Ar would be applied to a Non-Displayed Retail

Order that adds liquidity in Tape A, B, and C securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ar would receive a rebate of \$0.0025 per share in securities priced at or above \$1.00 and 0.05% of the transaction's dollar value in securities priced below \$1.00.

The rate of \$0.0025 is consistent with the proposed rate change to the Standard Rates table for Adding Liquidity Non-Displayed Orders as contained in this proposal.

- Liquidity indicator code RR would be applied to a Displayed Retail Order that removes liquidity in Tape A, B, and C securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RR would be subject to the fee of \$0.0025 per share in securities priced at or above \$1.00 and 0.05% of the transaction's dollar value in securities priced below \$1.00.

The rate of \$0.0025 is the current fee in effect for orders that remove liquidity.<sup>14</sup>

- Liquidity indicator code Rr would be applied to a Non-Displayed Retail Order that removes liquidity in Tape A, B, and C securities. The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rr would be subject to the fee of \$0.0025 per share in securities priced at or above \$1.00 and 0.05% of the transaction's dollar value in securities priced below \$1.00.

The rate of \$0.0025 is the current fee in effect for orders that remove liquidity.<sup>15</sup> The Exchange also proposes to add the above Retail Order liquidity indicator codes to the Standard Rates table. Specifically, liquidity indicator code AR would be added to the "Adding Liquidity Displayed Order" column and liquidity indicator code Ar would be added to the "Adding Liquidity Non-Displayed Order" column. Liquidity indicator codes RR and Rr would be added to the "Removing Liquidity" column of the Standard Rates table.

#### 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>16</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>17</sup> in particular, in that it is an equitable allocation of reasonable fees and other

charges among its Equity Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)<sup>18</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of sixteen registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 16% of the total market share of executed volume of equities trading.<sup>19</sup> Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents less than 1% of the overall market share. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, including with respect to Removing Liquidity and Retail Orders that Add and Remove Liquidity. The Exchange believes the proposed rule change to be a reasonable and competitive pricing structure designed to incentivize market participants to add aggressively priced Retail Orders and direct their order flow to the Exchange, which the Exchange believes would promote price discovery and price formation, provide more trading opportunities and tighter spreads, and deepen liquidity, thereby enhancing market quality to the benefit of all Equity Members and investors.

<sup>11</sup> The use of liquidity indicator codes is not novel and liquidity indicator codes are currently utilized by other equity exchanges. For example, see the fee schedules of the Investors Exchange LLC ("IEX") available at <https://iextrading.com/trading/fees/>; and MEMX LLC ("MEMX") available at <https://info.memxtrading.com/fee-schedule/>.

<sup>12</sup> A "Retail Order" is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See Exchange Rule 2626(a)(2).

<sup>13</sup> See the MEMX LLC, ("MEMX") Fee Schedule, effective June 1, 2021, on its public website available at <https://info.memxtrading.com/fee-schedule/> which establishes a rebate rate of \$0.0037 for Retail Orders that add liquidity in Tape A securities priced at or above \$1.00.

<sup>14</sup> See Securities Exchange Act Release No. 91497 (April 7, 2021), 86 FR 19290 (April 13, 2021) (SR-PEARL-2021-15).

<sup>15</sup> See *id.*

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(4).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> Market share percentage calculated as of June 24, 2021. The Exchange receives and processes data made available through consolidated data feeds.

The Exchange notes that the use of liquidity indicator codes is not unique to the Exchange and are currently utilized and described in the fee schedules of other equity exchanges.<sup>20</sup> Further, the Exchange also believes its proposal is not unfairly discriminatory because the proposed changes will apply equally to all Equity Members.

#### Conforming Changes to Liquidity Indicator Codes That Remove Liquidity

As set forth above, the Exchange filed Fee Filing No. 1 to adopt liquidity indicator codes and included the then-current rates. Subsequently, in Fee Filing No. 2, the Exchange reduced the fee for orders in Tapes A, B, and C securities that remove liquidity in securities priced at or above \$1.00 to \$0.0025 per share. Liquidity indicator codes RA, RB, RC, Ra, Rb, and Rc are appended to orders that remove liquidity. The Exchange believes its proposal to update the Liquidity Indicator Codes and Associated Fees table to reflect the current rate of \$0.0025 per share for securities priced at or above \$1.00 with liquidity indicator codes RA, RB, RC, Ra, Rb, or Rc is equitable and reasonable because it updates the liquidity indicator code table to reflect the established rate that is currently in effect and will apply equally to all Equity Members of the Exchange.

#### Amend the Standard Rate Rebate for Non-Displayed Orders That Add Liquidity

The Exchange's proposal to increase the rebate provided for orders that add liquidity in securities priced at or above \$1.00 from \$0.0022 to \$0.0025 per share is reasonable and equitably allocated among all Equity Members of the Exchange. Liquidity indicator codes Aa, Ab, and Ac are appended to orders that add liquidity. The Exchange believes that the proposed increase to \$0.0025 per share is reasonable in that it represent [sic] a modest increase (\$0.003) [sic] from the current rebate for such executions (\$0.0022 per share). The Exchange believes that this change is a reasonable means by which to incentivize Equity Members to submit Non-Displayed Orders that add liquidity to the benefit of all market participants. The Exchange believes its proposal is equitable and not unfairly discriminatory as it will apply to all

Equity Members equally. Additionally, the Exchange believes its proposed change is reasonable as it is competitive and in line with rebates offered for similar orders on at least one other exchange.<sup>21</sup>

#### New Retail Order Liquidity Codes

The Exchange's proposal to adopt four new Retail Order liquidity indicator codes is reasonable and not unfairly discriminatory as it will apply to all Equity Members equally. The Exchange notes that the use of liquidity indicator codes is not novel and that liquidity indicator codes are used by other equity exchanges.<sup>22</sup>

The Exchange's [sic] believes its proposal to establish a rebate of \$0.0037 for a Retail Displayed Order that adds liquidity for securities priced at or above \$1.00 is reasonable as it is competitive and in line with the rebate offered for similar Retail Orders on at least one other exchange.<sup>23</sup>

The Exchange's proposal to establish a rebate of \$0.0025 for orders with a liquidity indicator code of Ar, Retail Non-Displayed Orders that add liquidity, is reasonable as this rate is consistent with the proposed rate change contained herein for Liquidity Adding Non-Displayed Orders. The Exchange believes its proposed change is reasonable as it is competitive and in line with rebates offered for similar orders on at least one other exchange.<sup>24</sup>

The Exchange believes its proposal to adopt liquidity indicator codes for Retail Displayed Orders that remove liquidity (RR) and for Retail Non-Displayed Orders that remove liquidity (Rr) is reasonable and not unfairly discriminatory as the use of liquidity indicator codes is used on other equity exchanges.<sup>25</sup>

The Exchange believes its proposal to establish a fee of \$0.0025 for Retail Displayed Orders that remove liquidity (RR) and for Retail Non-Displayed Orders that remove liquidity (Rr) is reasonable and not unfairly discriminatory as it applies equally to all Equity Members of the Exchange.

<sup>21</sup> See the MEMX LLC, ("MEMX") Fee Schedule, effective June 1, 2021, on its public website available at <https://info.memxtrading.com/fee-schedule/> which establishes a rebate rate of \$0.0020 for non-displayed volume that adds liquidity in Tape A securities priced at or above \$1.00; and a rebate of \$0.0025 for non-displayed Midpoint Peg Orders that add liquidity in Tape A securities priced at or above \$1.00.

<sup>22</sup> See *supra* note 11.

<sup>23</sup> See *supra* note 13.

<sup>24</sup> See the MEMX LLC, ("MEMX") Fee Schedule, effective June 1, 2021, on its public website available at <https://info.memxtrading.com/fee-schedule/> which establishes a fee of \$0.00265 for orders that remove volume from the exchange.

<sup>25</sup> See *supra* note 11.

Additionally, the rate of \$0.0025 for orders that remove liquidity in securities priced at or above \$1.00 was established by the Exchange in a previous filing<sup>26</sup> and adopting a fee in the same amount for similar orders is reasonable and not unfairly discriminatory and promotes consistency and uniformity in the Exchange's Fee Schedule.

The Exchange believes its proposal provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory. For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

The Exchange believes the Liquidity Indicator Codes and Associated Fees table will make the Fee Schedule clearer and eliminate the potential for confusion in regard to fees charged and rebates earned, thereby removing impediments to, and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. Further, as noted above, this practice is consistent with the pricing practices of other exchanges.<sup>27</sup>

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed change would encourage the submission of additional order flow to the Exchange, thereby promoting market depth, enhanced execution opportunities, as well as price discovery and transparency for all Equity Members. Furthermore, the Exchange believes that the proposed changes would allow the Exchange to continue to compete with other routing and execution venues by providing competitive pricing for transactions in Adding Liquidity Non-Displayed Orders

<sup>26</sup> See *supra* note 7.

<sup>27</sup> See *supra* note 11.

<sup>20</sup> The use of liquidity indicator codes is not novel and liquidity indicator codes are currently utilized by other equity exchanges. For example, see the fee schedules of the Investors Exchange LLC ("IEX") available at <https://iextrading.com/trading/fees/>; and MEMX LLC ("MEMX") available at <https://info.memxtrading.com/fee-schedule/>.

and also Retail Orders, thereby making it a desirable destination. As a result, the Exchange believes that the proposed change furthers the goal in adopting Regulation NMS of fostering competition among orders, which promotes “more efficient pricing of individual stocks for all types of orders, large and small.”<sup>28</sup>

#### Intramarket Competition

The Exchange believes that the proposed changes would incentivize market participants to direct order flow to the Exchange. Greater liquidity benefits all Equity Members by providing more trading opportunities and encourages Equity Members to send orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all Equity Members. The proposed fees and rebates for Retail Orders and the proposed rebate for Adding Liquidity Non-Displayed Orders would be available to all similarly situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

The Exchange does not believe its adoption of new liquidity indicator codes for Retail Orders will impose any burden on intramarket competition. The use of liquidity indicator codes is not new or novel as liquidity indicator codes are used on other equity exchanges.<sup>29</sup> Additionally, the use of liquidity indicator codes is applied equally to all Equity Members and provides additional specificity to the fee schedule so that Equity Members may connect an execution to the applicable fee or rebate.

As such, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### Intermarket Competition

The Exchange believes its proposal will benefit competition as the Exchange operates in a highly competitive market. Equity Members have numerous alternative venues that they may participate on and direct their order flow to, including fifteen other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than 16% of the total market share of executed volume of equities trading. Thus, in such a low-

concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, including with respect to Retail Orders and Adding Liquidity Non-Displayed Orders, as market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable. As described above, the proposed changes are competitive proposals through which the Exchange is seeking to encourage certain order flow to the Exchange and to promote market quality through pricing incentives that are similar in structure and purpose to pricing programs at other Exchanges.<sup>30</sup> Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar incentives to market participants that enhance market quality.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>31</sup> The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. circuit stated: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because

‘no exchange possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . .”<sup>32</sup> Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>33</sup> and Rule 19b-4(f)(2)<sup>34</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PEARL-2021-34 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-PEARL-2021-34. This file number should be included on the subject line if email is used. To help the

<sup>28</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 47396 (June 29, 2005).

<sup>29</sup> See *supra* note 11.

<sup>30</sup> See *supra* notes 21, 23, and 24.

<sup>31</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

<sup>32</sup> *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSE-2006-21)).

<sup>33</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>34</sup> 17 CFR 240.19b-4(f)(2).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PEARL-2021-34, and should be submitted on or before August 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>35</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2021-15814 Filed 7-23-21; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92445; File No. SR-CboeEDGX-2021-033]

### Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

July 20, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 13, 2021, Cboe EDGX Exchange, Inc. ("Exchange" or "EDGX") filed with the Securities and Exchange Commission

("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX" or "EDGX Equities") proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/options/regulation/rule\\_filings/edgx/](http://markets.cboe.com/us/options/regulation/rule_filings/edgx/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform ("EDGX Equities") to (1) modify the standard rate for securities priced at or above \$1.00 that remove liquidity, (2) remove certain fee codes in connection with internalization, (3) adopt a new tier under each of the Growth Tiers, the Non-Displayed Step-Up Volume Tier, and the Remove Volume Tiers, and, as a result, define the term "Step-Up ADAV", and (4) eliminate a Remove Volume Tier and a Retail Volume Tier.<sup>3</sup> The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing

venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,<sup>4</sup> no single registered equities exchange has more than 16% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a "Maker-Taker" model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above \$1.00, the Exchange provides a standard rebate of \$0.00160 per share for orders that add liquidity and assesses a fee of \$0.00280 per share for orders that remove liquidity. For orders in securities priced below \$1.00, the Exchange provides a standard rebate of \$0.00009 per share for orders that add liquidity and assesses a fee of 0.30% of total dollar value for orders that remove liquidity. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

##### Standard Rate: Securities at or Above \$1.00 That Remove Liquidity

As stated above, the Exchange currently assesses a standard rate of \$0.00280 per share for orders that remove liquidity in securities priced at \$1.00 or more. The Exchange proposes to amend the standard rate for orders that remove liquidity in securities priced at \$1.00 or more from a fee of \$0.00280 per share to \$0.00285 per share and reflects this change in the Fee Codes and Associated Fee where applicable (*i.e.*, corresponding to

<sup>35</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Exchange initially filed the proposed fee changes July 1, 2021 (SR-CboeEDGX-2021-031). On July 13, 2021 the Exchange withdrew that filing and submitted this proposal.

<sup>4</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (June 23, 2021), available at [https://markets.cboe.com/us/equities/market\\_statistics/](https://markets.cboe.com/us/equities/market_statistics/).

standard fee codes N, W, 6, BB and ZR). The Exchange notes that the proposed standard rate is in line with, yet also competitive with, rates assessed by other equities exchanges on orders in securities priced at \$1.00 or more.<sup>5</sup>

#### Eliminate Internalization Fee Codes

The Fee Codes and Associate Fees section of the Fee Schedule lists all available fee codes for orders on EDGX. In particular, current fee code EA is appended to internalization<sup>6</sup> orders that add displayed liquidity and current fee code ER is appended to internalization orders that remove displayed liquidity. Orders that yield fee code EA and ER are assessed a fee of \$0.0005 per share in securities priced at or above \$1.00 and 0.15% of the dollar value in securities priced below \$1.00.<sup>7</sup> The Exchange now proposes to eliminate these fee codes. The Exchange notes that a majority of other equities exchanges do not assess different rates for internalization orders, and therefore, in order to remain competitive with rates assessed on orders that add or remove liquidity on most other equities exchanges, the Exchange wishes to also not apply a different rate for such orders that are internalized. Internalization orders that add or remove liquidity will simply yield the applicable existing fee codes for all other orders that add or remove liquidity and receive the same corresponding rates that currently apply to all other orders that add or remove liquidity. For example, an internalization order that adds liquidity in Tape B securities will yield existing fee code B and receive the current corresponding rebate of \$0.00160 for securities priced at or above \$1.00 or \$0.00009 for securities priced below a \$1.00. The Exchange also notes that as a result of the proposed deletion of these fee codes, the proposed rule change deletes footnote 7 of the Fee Schedule, which provides that a

Member's rate for internalization (fee codes EA or ER) decreases to "free" per share per side if a Member adds an ADV of at least 10,000,000 shares.

#### New Growth, Non-Displayed Step-Up Volume, and Remove Volume Tier

Under footnote 1 of the Fee Schedule the Exchange currently offers various Add/Remove Volume Tiers. Specifically, the Exchange offers two Growth Tiers that each provide an enhanced rebate for Members' qualifying orders yielding fee codes B, V, Y, 3 and 4,<sup>8</sup> where a Member reaches certain add volume-based criteria, including "growing" its volume over a certain baseline month. For example, Growth Tier 1 provides an enhanced rebated of \$0.0026 per share on qualifying orders (*i.e.*, orders yielding fee code B, V, Y, 3 and 4) where a Member (1) adds an ADV<sup>9</sup> of greater than or equal to 0.20% of the TCV,<sup>10</sup> and (2) has a Step-Up Add TCV<sup>11</sup> from March 2019 that is greater than or equal to 0.10%. The Exchange also offers one Non-Displayed Step-Up Volume Tiers that provides an enhanced rebate for Members' orders yielding fee codes DM, HA, MM, and RP,<sup>12</sup> where a Member may receive an enhanced rebated of \$0.0025 per share on qualifying orders (*i.e.*, orders yielding fee code DM, HA, MM or RP) where a Member (1) has a Step-Up Add TCV from January 2021 greater than or equal to 0.10%, (2) adds an ADV greater than or equal to 0.50% of the TCV, and (3) removes an ADV greater than or equal to 0.75% of the TCV. Finally, the Exchange also

currently offers two Remove Volume Tiers. For example, Remove Volume Tier 1 currently offers a reduced fee of \$0.0027 per share on qualifying orders yielding fee codes BB, N and W<sup>13</sup> in securities priced at or above \$1.00 and 0.28% of total dollar value on qualifying orders in securities process below \$1.00, where a Member (1) has an ADAV<sup>14</sup> greater than or equal to 0.25% TCV with displayed orders that yield fee codes B, V or Y, or (2) adds Retail Order ADV (*i.e.*, yielding fee code ZA) greater than or equal to 0.45% of the TCV.

The Exchange now proposes to adopt a new Growth Tier 2, a new Non-Displayed Step-Up Volume Tier 2,<sup>15</sup> and a new Remove Volume Tier 1.<sup>16</sup> Each new tier provides the same set of additional criteria in which Members may strive to achieve to receive an enhanced rebate or reduced fee, as applicable—a Member must (1) add a Step-Up ADAV from June 2021 greater than or equal to 0.10% of the TCV, or add a Step-Up ADAV from June 2021 greater than or equal to 8,000,000, (2) and have a total remove ADV greater than or equal to 0.70% of the TCV. The proposed rule change also adopts a new definition, under the definitions section of the Fee Schedule, for the term "Step-Up ADAV", as referenced in each of the proposed new tiers. Specifically, as proposed "Step-up ADAV" means ADAV in the relevant baseline month subtracted from current ADAV.

For achieving the proposed criteria, a Member will receive a proposed enhanced rebate of \$0.0027 per share on qualifying orders (*i.e.*, yielding fee codes B, V, Y, 3 and 4) pursuant to proposed Growth Tier 2, a proposed enhanced rebate of \$0.0025 per share on qualifying orders (*i.e.*, yielding fee codes DM, HA, MM and RP) pursuant to proposed Non-Displayed Step-Up Volume Tier 2, and a proposed reduced fee of \$0.00275 per share on qualifying orders (*i.e.*, yielding fee codes BB, N and W) in securities priced at or above \$1.00 and 0.28% of total dollar value in

<sup>5</sup> See Nasdaq Pricing 7, Section 118(a)(1), which, for example, assesses a charge of \$0.0030 for member orders that execute against resting midpoint liquidity, and that that execute in the Nasdaq Market Center generally, in securities priced at \$1.00 or more; and NYSE American Equities Price List, NYSE American Trading Fees and Credits, Section I.A.1.a, Standard Rates, which assesses a standard rate of \$0.0030 per share (unless member adds ADV of at least 10,000 shares) for orders in securities priced at or above \$1 that remove liquidity.

<sup>6</sup> An internalized trade is a trade where the two orders inadvertently match against each other and share the same Market Participant Identifier ("MPID").

<sup>7</sup> Additionally, if a Member adds an ADV of at least 10,000,000 shares, then the Member's rate for internalization (fee codes EA or ER) decreases to FREE per share per side, for securities priced at, above, or below \$1. See EDGX Fee Schedule, Footnote 7.

<sup>8</sup> B is appended to orders that add liquidity to EDGX in Tape B securities, V is appended to order that add liquidity to EDGX in Tape A securities, Y is appended to orders that add liquidity to EDGX in Tape C securities, 3 is appended to orders that add liquidity to EDGX in pre and post market in Tape A or C securities, and 4 is appended to orders that add liquidity to EDGX in pre and post market in Tape A or C securities. Each is provided the standard rebate of \$0.00160.

<sup>9</sup> ADV means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.

<sup>10</sup> TCV means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

<sup>11</sup> Step-Up Add TCV means ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV.

<sup>12</sup> DM is appended to orders that add liquidity using MidPoint Discretionary order within discretionary range; HA is appended to non-displayed orders that add liquidity; MM is appended to non-displayed orders that add liquidity using Mid-Point Peg; and RP is appended to non-displayed orders that add liquidity using Supplemental Peg. Each is provided a rebate of \$0.00100.

<sup>13</sup> BB is appended to orders that remove liquidity from EDGX in Tape B securities, N is appended to orders that remove liquidity from EDGX in Tape C securities, and W is appended to orders that remove liquidity from EDGX in Tape A securities. Each, as proposed, is assessed a fee of \$0.00285.

<sup>14</sup> ADAV means average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

<sup>15</sup> As a result, the proposed rule change updates the name of the current Non-Displayed Step-Up Tier to Non-Displayed Step-Up Tier 1.

<sup>16</sup> As a result, the proposed rule change updates the name the current Remove Volume Tier 1 to Remove Volume Tier 2. Note that current Remove Volume Tier 3 is being deleted as proposed herein.

securities priced below \$1.00 pursuant to proposed Remove Volume Tier 1.<sup>17</sup>

Overall, the new Growth, Non-Displayed Step-Up Volume, and Remove Volume tiers are designed to provide Members with an additional opportunity to receive an enhanced rebate or reduced fee by increasing their order flow to the Exchange, which further contributes to a deeper, more liquid market and provides even more execution opportunities for active market participants. Incentivizing an increase in both liquidity adding volume and in liquidity removing volume, through additional criteria and enhanced rebate opportunities, encourages liquidity adding Members on the Exchange to contribute to a deeper, more liquid market, and liquidity executing Members on the Exchange to increase transactions and take execution opportunities provided by such increased liquidity, together providing for overall enhanced price discovery and price improvement opportunities on the Exchange. As such, increased overall order flow benefits all Members by contributing towards a robust and well-balanced market ecosystem.

#### Eliminate a Remove Volume Tier and Retail Volume Tier

Finally, the Exchange proposes to eliminate Remove Volume Tier 2 and Retail Volume Tier 3. Current Remove Volume Tier 2 provides a reduced fee of \$0.0026 on qualifying orders (*i.e.*, yielding fee codes BB, N and W) in securities priced at or above \$1.00 and 0.28% of total dollar value in securities priced below \$1.00, where a Member (1) has a Step-Up Add TCV from January 2021 greater than or equal to 0.15%, (2) has an ADAV greater than or equal to 0.08% of the TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM, or RP, and (3) removes an ADV greater than or equal to 0.75% of the TCV. Current Retail Volume Tier 3 offers an enhanced rebate of \$0.0037 per share on qualifying orders (*i.e.*, yielding fee code ZA), where a Member (1) has a Retail Step-Up Add TCV (*i.e.*, yielding fee code ZA) from May 2020 greater than or equal to 0.10%, and (2) removes an ADV greater than or equal to 0.70% of the TCV. The Exchange proposes to eliminate Remove Volume Tier 2 and

Retail Volume Tier 3 as no Members are currently satisfying the criteria under these tiers, nor have satisfied such criteria over the last three months. The Exchange no longer wishes to, nor is it required to, maintain such tiers. More specifically, the proposed rule change removes these tiers as the Exchange would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>18</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>19</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)<sup>20</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

Regarding the proposed change to the standard rates, the Exchange believes that amending the standard rate for orders that remove liquidity in securities priced at or above \$1.00 is reasonable because, as stated above, in order to operate in the highly competitive equities markets, the

Exchange and its competing exchanges seek to offer similar pricing structures, including assessing comparable standard fees for orders in securities priced at or above \$1.00.<sup>21</sup> Thus, the Exchange believes the proposed standard rate change is reasonable as it is generally aligned with and competitive with the amounts assessed for the orders in securities at or above \$1.00 on other equities exchanges. The Exchange also believes that amending this standard rate amount represents an equitable allocation of fees and is not unfairly discriminatory because they will continue to automatically apply to all Members' orders that remove liquidity in securities at or above \$1.00 uniformly.

The Exchange also believes the proposed rule change to remove fee codes EA and ER is reasonable as the Exchange has observed that a majority of other equities exchanges do not assess a different rate for internalization orders that add or remove liquidity, and therefore, seeks to more competitively align its rates assessed on orders that add or remove liquidity with those assessed on other equities exchanges by also not applying a different rate for internalized orders. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess internalization orders that add or remove liquidity the same existing corresponding rates currently applied to orders that add or remove liquidity that are not internalized. Such current rates will apply automatically and uniformly to internalizing orders that add or remove liquidity as they do today for all other orders that add or remove liquidity.

Also, as described above, the Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,<sup>22</sup> including the Exchange,<sup>23</sup> and are reasonable, equitable and non-discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Competing equity exchanges offer similar tiered pricing structures, including schedules of rebates and fees

<sup>17</sup> As a result of the five decimal format of the proposed reduced fee in proposed Remove Volume Tier 1, the proposed rule change also updates the decimal format of the reduced fee that currently corresponds to Remove Volume Tier 2 (current Tier 1) in order to provide uniformity across the Remove Volume tiers. This formatting update does not alter the current reduced fee amount offered under Remove Volume Tier 2 (current Tier 1).

<sup>18</sup> 15 U.S.C. 78f.

<sup>19</sup> 15 U.S.C. 78f(b)(4).

<sup>20</sup> 15 U.S.C. 78f(b)(5).

<sup>21</sup> See *supra* note 5.

<sup>22</sup> See generally NYSE Price List, Transaction Fees; Nasdaq Equity 7, Section 118(a)(1), Fees for Execution and Routing of Orders in Nasdaq-Listed Securities; and BZX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

<sup>23</sup> See EDGX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

that apply based upon members achieving certain volume and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange.

In particular, the Exchange believes the proposed new Growth, Non-Displayed Step-Up Volume, and Remove Volume tiers are reasonable because each new tier will be available to all Members, as the existing tiers currently are, and provide all Members with an additional opportunity to receive an enhanced rebate or reduced fee, as applicable. The Exchange further believes the proposed new Growth, Non-Displayed Step-Up, and Remove Volume tiers are a reasonable means to encourage overall growth in Members' overall order flow to the Exchange and to incentivize Members to continue to provide liquidity adding and liquidity removing to the Exchange by offering them an additional opportunity to receive an enhanced rebate or reduced fee on qualifying orders than those opportunities currently under the Add/Remove Volume Tiers in Footnote 1 of the Fee Schedule. The Exchange believes that the proposed tiers will generally benefit all market participants by incentivizing continuous liquidity and thus, deeper more liquid markets as well as increased execution opportunities. Indeed, the Exchange notes that greater add volume order flow may provide for deeper, more liquid markets and execution opportunities at improved prices, and greater remove volume order flow may increase transactions on the Exchange, which the Exchange believes incentivizes liquidity providers to submit additional liquidity and execution opportunities. This overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality, for all investors. The Exchange also believes the proposed rule change to define the term "Step-Up ADAV" is reasonable as it will clarify terminology used in the Fee Schedule, to the benefit of all Members.

Further, the Exchange believes that the proposed tiers are reasonable as they do not represent a significant departure from the criteria or corresponding rates currently offered in the Fee Schedule, and that the proposed enhanced rebates or enhanced fee, as applicable, are commensurate with the new criteria. More specifically, the Exchange believes that the proposed criteria, which is the same in each new tier, and corresponding rates are commensurate with surrounding tiers; in that the proposed criteria in new Growth Tier 2

is incrementally more difficult than that of Growth Tier 1 and thus appropriately offers a greater incentive, the proposed criteria in new Remove Volume Tier 1 is incrementally less difficult than that of Remove Volume Tier 2 (current Tier 1)<sup>24</sup> and thus appropriately offers a lesser incentive, and the proposed criteria in new Non-Displayed Step-Up Volume Tier 2 is about the same in difficulty as the current Non-Displayed Step-Up Volume Tier and thus appropriately offers the same incentive.

The Exchange also believes that the proposal represents an equitable allocation of fees and rebates and is not unfairly discriminatory because all Members are eligible for the new Growth, Non-Displayed Step-Up Volume, and Remove Volume tiers and have the opportunity to meet the tiers' criteria and receive the applicable enhanced rebate or reduced fee if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying for the proposed tiers. While the Exchange has no way of predicting with certainty how the proposed tiers will impact Member activity, the Exchange anticipates that at least five Members will be able to satisfy the criteria proposed under each of the three new tiers. The Exchange also notes that proposed tiers will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebate offered under other tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate or reduced fee, as applicable.

Finally, the Exchange believes the proposed rule change to eliminate Remove Volume Tier 2 and Retail Volume Tier 3 is reasonable because the Exchange is not required to maintain this tier or provide Members an opportunity to receive reduced fees or enhanced rebates. The Exchange believes the proposal to eliminate these tiers is also equitable and not unfairly discriminatory because it applies to all Members (*i.e.*, the tier will not be available for any Member). The Exchange notes that recently no Members have satisfied the criteria of Remove Volume Tier 2 nor the criteria of Retail Volume Tier 3. The Exchange also notes that the proposed rule change to remove these two tiers merely results in Members not receiving a reduced fee or enhanced rebate, as applicable, which as noted above, the Exchange is not required to offer or maintain.

Furthermore, the proposed rule change to eliminate both Remove Volume Tier 2 and Retail Volume Tier 3 enables the Exchange to redirect resources and funding into other programs and tiers intended to incentivize increased order flow.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed rule change to update the standard fee applicable to liquidity removing orders in securities priced at or above a \$1.00 does not impose any burden on intramarket competition because the standard rate will continue to apply automatically and uniformly to all liquidity removing orders priced at or above \$1.00. Similarly, all Members' internalizing orders that add or remove liquidity will no longer yield fee codes EA or ER, and, instead, will automatically and uniformly be assessed the fees already in place for all other orders generally that add or remove liquidity. The Exchange also notes that the proposed new Growth, Non-Displayed Step-Up Volume, Remove Volume tiers applies to all Members equally in that all Members are eligible for these tiers, have a reasonable opportunity to meet the tiers' criteria and will receive the enhanced rebates or reduced fee on their qualifying orders if such criteria is met. Additionally, the proposed tiers are designed to attract additional order flow to the Exchange. The Exchange believes that the new criteria will incentivize market participants to direct liquidity adding and removing order flow to the Exchange, providing for additional execution opportunities for market

<sup>24</sup> See *supra* note 16.

participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem. Finally, the Exchange does not believe the proposed rule change to eliminate a Remove Volume Tier and Retail Volume Tier will impose any burden on intramarket competition because it applies to all Members uniformly, as in, the tiers will no longer be available to any Member.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 16% of the market share.<sup>25</sup> Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>26</sup> The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-

dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . . .”<sup>27</sup> Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>28</sup> and paragraph (f) of Rule 19b-4<sup>29</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeEDGX-2021-033 on the subject line.

<sup>27</sup> *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

<sup>28</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>29</sup> 17 CFR 240.19b-4(f).

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeEDGX-2021-033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGX-2021-033, and should be submitted on or before August 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>30</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021-15812 Filed 7-23-21; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>25</sup> *Supra* note 4.

<sup>26</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

<sup>30</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92449; File No. SR–NYSEArca–2021–61]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reflect an Amendment to the Application and Exemptive Order Governing Shares of Active Proxy Portfolio Shares Issued by T. Rowe Price Exchange-Traded Funds, Inc. Which Are Listed and Traded on the Exchange

July 20, 2021.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on July 7, 2021, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect an amendment to the Application and Exemptive Order governing the following funds, shares of which are listed and traded on the Exchange under NYSE Arca Rule 8.601–E: T. Rowe Price Blue Chip Growth ETF, T. Rowe Price Dividend Growth ETF, T. Rowe Price Growth Stock ETF, T. Rowe Price Equity Income ETF, and T. Rowe Price U.S. Equity Research ETF. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries,

set forth in sections A, B, and C below, of the most significant parts of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange adopted NYSE Arca Rule 8.601–E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges (“UTP”), of Active Proxy Portfolio Shares, which are securities issued by an actively managed open-end investment management company.<sup>4</sup> Commentary .01 to Rule 8.601–E requires the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Active Proxy Portfolio Shares on the Exchange. Pursuant to this provision, the Exchange submitted proposals to list and trade shares (“Shares”) of Active Proxy Portfolio Shares of the following Funds listed and traded on the Exchange under NYSE Arca Rule 8.601–E: T. Rowe Price Blue Chip Growth ETF, T. Rowe Price Dividend Growth ETF, T. Rowe Price Growth Stock ETF, T. Rowe Price Equity Income ETF, and, separately, T. Rowe Price U.S. Equity Research ETF<sup>5</sup> (each, a “Fund” and,

together, the “Funds”). The Exchange proposes to reflect an amendment to the Prior Exemptive Order (as defined below) governing the listing and trading of these Funds filed by, among others, T. Rowe Price Exchange-Traded Funds, Inc. (the “Issuer”), as follows.

The Issuer filed a seventh amended application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (the “Prior Application”).<sup>6</sup> On December 10, 2019, the Commission issued an order (the “Prior Exemptive Order”) under the 1940 Act granting the exemptions requested in the Application.<sup>7</sup>

Under the Prior Exemptive Order, the Funds are required to publish a basket of securities and cash that, while different from the Fund’s portfolio, is designed to closely track its daily performance (“Proxy Portfolio”). The Prior Application stated that each Fund’s Proxy Portfolio will be determined such that at least 80% of its total assets will overlap with the portfolio weightings of the Fund (the “Portfolio Overlap”). As set forth in the Approval Order and in the Notice, investments made by the T. Rowe Price Blue Chip Growth ETF, T. Rowe Price Dividend Growth ETF, T. Rowe Price Growth Stock ETF, T. Rowe Price Equity Income ETF, and T. Rowe Price U.S. Equity Research ETF will comply with the conditions set forth in the Prior Application and the Prior Exemptive Order.<sup>8</sup>

On February 4, 2021, as amended on March 30, 2021, the Issuer sought to amend the Prior Exemptive Order to permit use of creation baskets<sup>9</sup> that

T. Rowe Price Growth Stock ETF, T. Rowe Price Equity Income ETF. See Securities Exchange Act Release No. 89191 (June 30, 2020), 85 FR 40358 (July 6, 2020) (SR–NYSEArca–2019–92) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, to List and Trade Four Series of Active Proxy Portfolio Shares Issued by T. Rowe Price Exchange-Traded Funds, Inc. Under NYSE Arca Rule 8.601–E) (“Approval Order”). The Commission published the notice of filing and immediate effectiveness relating to the rule change to list and trade shares of the T. Rowe Price U.S. Equity Research ETF on March 15, 2021. See Securities Exchange Act Release No. 91322 (March 15, 2021), 86 FR 14980 (March 19, 2021) (SR–NYSEArca–2021–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Listing and Trading of Shares of the T. Rowe Price U.S. Equity Research ETF under NYSE Arca Rule 8.601–E (“Notice”).

<sup>6</sup> See File No. 812–14214, dated October 16, 2019.

<sup>7</sup> See Investment Company Act Release No. 33713, December 10, 2019.

<sup>8</sup> See Approval Order, 85 FR at 40360, n. 18; Notice, 86 FR at 14981, n.9.

<sup>9</sup> As set forth in the Notice, Shares of the Funds are purchased and redeemed in specified minimum size “Creation Units” and generally on an in-kind basis. Except where the purchase or redemption

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

<sup>5</sup> On June 30, 2020, the Commission approved the proposed rule change relating to the listing and trading of shares of T. Rowe Price Blue Chip Growth ETF, T. Rowe Price Dividend Growth ETF,

include instruments that are not included, or are included with different weightings, in the Funds' Proxy Portfolio (the "Updated Application").<sup>10</sup> In addition, the Updated Application noted that the Portfolio Overlap may be less than 80%.

On May 18, 2021, the Commission issued an amended order that, among other things, permits each Fund's Portfolio Overlap to be less than 80% (the "Updated Exemptive Order").<sup>11</sup> Accordingly, investments made by the T. Rowe Price Blue Chip Growth ETF, T. Rowe Price Dividend Growth ETF, T. Rowe Price Growth Stock ETF, T. Rowe Price Equity Income ETF, and T. Rowe Price U.S. Equity Research ETF will comply with this condition of the Updated Application and the Updated Exemptive Order.

Except for the change noted above, all other representations made in the respective rule filings remain unchanged and will continue to constitute continuing listing requirements for the Funds. The Funds will also continue to comply with the requirements of Rule 8.601-E.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>13</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.<sup>14</sup>

includes cash under the circumstances specified in the Notice, purchasers must purchase Creation Units by making an in-kind deposit of specified instruments ("Deposit Instruments"), and shareholders redeeming Shares will receive an in-kind transfer of specified instruments ("Redemption Instruments"). The names and quantities of the instruments that constitute the Deposit Instruments and the Redemption Instruments for a Fund are known collectively as a "Creation Basket" and are the same as a Fund's designated Proxy Portfolio, except to the extent that a Fund requires purchases and redemptions to be made entirely or in part on a cash basis, as described below. See Notice, 86 FR at 14980.

<sup>10</sup> See File No. 812-15197, dated March 30, 2021.

<sup>11</sup> See Investment Company Act Release No. 34272, May 18, 2021. Although the Updated Exemptive Order permits the use of Creation Baskets that include instruments that are not included, or are included with different weightings, in a Fund's Proxy Portfolio, that aspect of the Updated Exemptive Order is not part of this proposed rule change.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> The Exchange represents that, for initial and continued listing, the Fund will be in compliance

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The proposed revision is intended to reflect the change in the Updated Application and the Updated Exemptive Order that permits each of the Funds' Portfolio Overlap to be less than 80%. As noted, the Approval Order and the Notice reflected that the Funds' Portfolio Overlap would be at least 80%. The proposed rule change would permit the Funds to operate consistent with this updated condition in the Updated Application and the Updated Exemptive Order. Except for the changes noted above, all other representations made in the respective rule filings remain unchanged and, as noted, will continue to constitute continuing listing requirements for the Funds.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. As noted, the purpose of the filing is to reflect an amendment to the Prior Exemptive Order governing the listing and trading of these Funds. To the extent that the proposed rule change would continue to permit listing and trading of another type of actively-managed ETF that has characteristics different from existing actively-managed and index ETFs, the Exchange believes that the proposal would benefit investors by continuing to promote competition among various ETF products.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

with Rule 10A-3 under the Act, as provided by NYSE Arca Rule 5.3-E.

19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>17</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the Funds will continue to comply with the requirements of Rule 8.601-E and that waiver of the operative delay would allow the Funds to operate in a manner consistent with the Updated Application and Updated Exemptive Order. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>18</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2021-61 on the subject line.

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>17</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>18</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

### Paper Comments

• Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2021–61. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2021–61 and should be submitted on or before August 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2021–15811 Filed 7–23–21; 8:45 am]

**BILLING CODE 8011–01–P**

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92448; File No. SR–MIAX–2021–34]

#### Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule for the Complex PRIME Agency Order Credit

July 20, 2021.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on July 12, 2021, Miami International Securities Exchange LLC (“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the “Fee Schedule”).

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings>, at MIAX's principal office, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend the Fee Schedule to (i) modify the Priority Customer Rebate Program (“PCRP”) <sup>3</sup> as it pertains to per contract credits for complex PRIME (“cPRIME”) <sup>4</sup> Agency Orders for Priority Customers; and (ii) to remove the per contract credit cap for cPRIME Agency Orders for Priority Customers and the associated waiver of same which was in effect until June 30, 2021. The Exchange initially filed this proposal on July 1, 2021 (SR–MIAX–2021–33) and withdrew such filing on July 12, 2021. The Exchange proposes to implement the fee change effective July 12, 2021.

##### Background

Exchange Rule 518(b)(7) defines a cPRIME Order as a type of complex order <sup>5</sup> that is submitted for participation in a cPRIME Auction and trading of cPRIME Orders is governed by Rule 515A, Interpretation and

<sup>3</sup> Under the PCRP, MIAX Options credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (excluding, in simple or complex as applicable, QCC and cQCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Exchange Rule 1400), provided the Member meets certain percentage thresholds in a month as described in the Priority Customer Rebate Program table. See Fee Schedule, Section (1)(a)iii.

<sup>4</sup> “cPRIME” is the process by which a Member may electronically submit a “cPRIME Order” (as defined in Rule 518(b)(7)) it represents as agent (a “cPRIME Agency Order”) against principal or solicited interest for execution (a “cPRIME Auction”), subject to the restrictions set forth in Exchange Rule 515A, Interpretation and Policy .12. See Exchange Rule 515A.

<sup>5</sup> A “complex order” is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the “legs” or “components” of the complex order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purposes of executing a particular investment strategy. A complex order can also be a “stock-option” order, which is an order to buy or sell a stated number of units of an underlying security coupled with the purchase or sale of options contract(s) on the opposite side of the market, subject to certain contingencies set forth in the proposed rules governing complex orders. For a complete definition of a “complex order,” see Exchange Rule 518(a)(5). See also Securities Exchange Act Release No. 78620 (August 18, 2016), 81 FR 58770 (August 25, 2016) (SR–MIAX–2016–26).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>19</sup> 17 CFR 200.30–3(a)(12).

Policies.<sup>12,6</sup> cPRIME Orders are processed and executed in the Exchange's PRIME mechanism, the same mechanism that the Exchange uses to process and execute simple PRIME orders, pursuant to Exchange Rule 515A.<sup>7</sup> PRIME is a process by which a Member<sup>8</sup> may electronically submit for execution an order it represents as agent (an "Agency Order") against principal interest and/or solicited interest. The Member that submits the Agency Order ("Initiating Member") agrees to guarantee the execution of the Agency Order by submitting a contra-side order representing principal interest or solicited interest ("Contra-Side Order"). When the Exchange receives a properly designated Agency Order for Auction processing, a request for response ("RFR") detailing the option, side, size and initiating price is broadcasted to MIAx participants up to an optional designated limit price. Members may submit responses to the RFR, which can be either an Auction or Cancel ("AOC") order<sup>9</sup> or an AOC eQuote.<sup>10</sup> A cPRIME Auction is the price-improvement mechanism of the Exchange's System pursuant to which an Initiating Member electronically submits a complex Agency Order into a cPRIME Auction. The Initiating Member, in submitting an Agency Order, must be willing to either (i) cross the Agency Order at a single price against principal or solicited interest, or (ii) automatically match against principal or solicited interest,

the price and size of a RFR that is broadcast to MIAx participants up to an optional designated limit price. Such responses are defined as cPRIME AOC Responses or cPRIME eQuotes. The PRIME mechanism is used for orders on the Exchange's Simple Order Book.<sup>11</sup> The cPRIME mechanism is used for Complex Orders<sup>12</sup> on the Exchange's Strategy Book,<sup>13</sup> with the cPRIME mechanism operating in the same manner for processing and execution of cPRIME Orders that is used for PRIME Orders on the Simple Order Book.

#### Removal of Contract Cap

In conjunction with the implementation of cPRIME Orders on the Exchange, the Exchange amended its Priority Customer Rebate Program to establish a per contract credit rate for cPRIME Agency Orders for Priority Customers.<sup>14</sup> The Exchange limited the cPRIME Agency Order Credit to be payable only to the first 1,000 contracts per leg for each cPRIME Agency Order in all tiers under the PCRP in its filing on August 1, 2018.<sup>15</sup> On February 28, 2020, the Exchange amended the Fee Schedule to waive the 1,000 contract cap per leg for cPRIME Agency Order rebates for all tiers under the PCRP from March 1, 2020, until May 31, 2020.<sup>16</sup> The Exchange subsequently extended the waiver from June 1, 2020, until June 30, 2021, in a series of filings beginning June 2020.<sup>17</sup> The Exchange now

proposes to remove footnote "\*" in Section (1)(a)(iii) of the Fee Schedule in its entirety to remove the per contract credit cap of 1,000 contracts and to also eliminate the waiver of the contract cap per leg for cPRIME Agency Order rebates for all tiers under the PCRP.

#### cPRIME Agency Order per Contract Credit

In conjunction with the removal of the per credit cap of 1,000 contracts as described above, the Exchange now proposes to adopt a new table under the PCRP for cPRIME Agency Orders for Priority Customers where the max leg of the order is greater than 1,000 contracts. The table will provide a tiered agency credit rate for cPRIME Agency Orders for Priority Customers dependent upon the break-up percentage and the largest leg of the order being greater than 1,000 contracts for Members in PCRP Tiers 1–4, unless the Member is eligible to receive the alternative cPRIME Agency Order Credit amount for cPRIME Agency Orders in Tier 4 of the PCRP,<sup>18</sup> in which case those orders will earn a credit of \$0.12.

Orders that have a max leg size of 1,000 contracts or less will continue to receive the agency credit described in PCRP Tier 1–4, unless the Member is eligible to receive the alternative cPRIME Agency Order Credit amount for cPRIME Agency Orders in Tier 4 of the PCRP, in which case the order will earn a per contract credit of \$0.12.<sup>19</sup> The Exchange proposes to adopt new footnote "\*" to state that for cPRIME Agency Orders with a max leg size of 1,000 contracts or less, the Exchange will assess the credits as described in the Priority Customer Rebate Program table for Tiers 1–4 regardless of the Order Break-up percentage. Additionally, the break-up credits described in section (1)(a)(vi) of the Fee Schedule will continue to apply.

The table will provide a per contract agency credit based upon the break-up percentage of the order. Specifically, orders with a break-up % of 0–10% will earn a credit of \$0.05 per contract; orders with a break-up percentage

the waiver period from December 31, 2020, until March 31, 2021; and 91505 (April 8, 2021), 86 FR 19677 (April 14, 2021) (SR-MIAx-2021-07) (Extending the waiver period from April 1, 2021, until June 30, 2021).

<sup>18</sup> Under the PCRP, any Member or its Affiliate that qualifies for Priority Customer Rebate Program tier 4 and executes Priority Customer standard, non-paired complex volume at least equal to or greater than three (3) times their Priority Customer cPRIME Agency Order volume, on a monthly basis, will receive a credit of \$0.12 per contract for cPRIME Agency Orders instead of the credit otherwise applicable to such orders in tier 4.

<sup>19</sup> *Id.*

<sup>6</sup> See Securities Exchange Act Release No. 81131 (July 12, 2017), 82 FR 32900 (July 18, 2017) (SR-MIAx-2017-19) (Order Granting Approval of a Proposed Rule Change to Amend MIAx Options Rules 515, Execution of Orders and Quotes; 515A, MIAx Price Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism; and 518, Complex Orders).

<sup>7</sup> *Id.*

<sup>8</sup> The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

<sup>9</sup> An Auction-or-Cancel or "AOC" order is a limit order used to provide liquidity during a specific Exchange process (such as the Opening Imbalance process described in Rule 503) with a time in force that corresponds with that event. AOC orders are not displayed to any market participant, are not included in the MBBO and therefore are not eligible for trading outside of the event, may not be routed, and may not trade at a price inferior to the away markets. See Exchange Rule 516(b)(4).

<sup>10</sup> An Auction or Cancel or "AOC" eQuote is a quote submitted by a Market Maker to provide liquidity in a specific Exchange process (such as the Opening Imbalance Process described in Rule 503) with a time in force that corresponds with the duration of that event and will automatically expire at the end of that event. AOC eQuotes are not displayed to any market participant, are not included in the MBBO and therefore are not eligible for trading outside of the event. An AOC eQuote does not automatically cancel or replace the Market Maker's previous Standard quote or eQuote. See Exchange Rule 517(a)(2)(ii).

<sup>11</sup> The "Simple Order Book" is the Exchange's regular electronic book of orders and quotes. See Exchange Rule 518(a)(15).

<sup>12</sup> See *supra* note 6. Mini-options may only be part of a complex order that includes other mini-options. Only those complex orders in the classes designated by the Exchange and communicated to Members via Regulatory Circular with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis and communicated to Members via Regulatory Circular, are eligible for processing. See Exchange Rule 518(a)(5).

<sup>13</sup> The "Strategy Book" is the Exchange's electronic book of complex orders and complex quotes. See Exchange Rule 518(a)(17).

<sup>14</sup> See Securities Exchange Act Release No. 81372 (August 10, 2017) 82 FR 38964 (August 16, 2017) (SR-MIAx-2017-40).

<sup>15</sup> See Securities Exchange Act Release No. 83797 (August 8, 2018), 83 FR 40373 (August 14, 2018) (SR-MIAx-2018-22).

<sup>16</sup> See Securities Exchange Act Release No. 88349 (March 10, 2020), 85 FR 14995 (March 16, 2020) (SR-MIAx-2020-05).

<sup>17</sup> See Securities Exchange Act Release Nos. 89035 (June 9, 2020), 85 FR 36249 (June 15, 2020) (SR-MIAx-2020-12) (Extending the waiver period from June 1, 2020, until July 31, 2020); 89530 (August 12, 2020), 85 FR 50845 (August 18, 2020) (SR-MIAx-2020-26) (Extending the waiver period from July 31, 2020, until August 31, 2020); 89771 (September 4, 2020), 85 FR 55873 (September 10, 2020) (SR-MIAx-2020-28) (Extending the waiver period from August 31, 2020, until December 31, 2020); 90818 (December 29, 2020), 86 FR 350 (January 5, 2021) (SR-MIAx-2020-40) (Extending

greater than 10% to, and including 20%, will earn a per contract credit of \$0.06; orders with a break-up percentage greater than 20% to, and including 30%, will earn a per contract credit of \$0.07; orders with a break-up percentage greater than 30% to, and including 40%, will earn a per contract credit of \$0.08; orders with a break-up percentage greater than 40% will earn a per contract credit of \$0.10, unless the Member is eligible to receive the alternative cPRIME Agency Order Credit amount for cPRIME Agency Orders in Tier 4 of the PCRP, in which case the order will earn a per contract credit of \$0.12.<sup>20</sup>

For example, if the cPRIME Agency Order has two legs (one for 400 contracts and the other for 1,200 contracts) and trades 30% with an AOC Response, the order would receive an agency credit of \$0.07 per contract for all legs of the order, as the max leg of the order was greater than 1,000 contracts and 30% of the order was broken up. The portion of the order that was broken up will also receive the agency credit of \$0.07 per contract.

The decision to offer tiered cPRIME agency credits and to remove the credit cap is based on an analysis of current revenue and volume levels and is designed to encourage Priority Customer order flow to the Exchange.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>21</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>22</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes its proposal provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory for the following reasons. The Exchange operates in a highly competitive market in which market participants can readily direct

order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 16% of the market share.<sup>23</sup> Thus, in such a low-concentrated and highly competitive market, no single options exchange possess significant pricing power in the execution of option order flow.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue use of certain categories of products, in response to fee changes. For example, on March 1, 2019, the Exchange filed with the Commission an immediately effective filing to decrease certain credits assessable to Members pursuant to the PCRP.<sup>24</sup> The Exchange experienced a decrease in total market share between the months of February and March of 2019. Accordingly, the Exchange believes that the March 1, 2019, fee change may have contributed to the decrease in the Exchange's market share and, as such, the Exchange believes competitive forces constrain options exchange transaction and non-transaction fees.

Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to the competitive environment, the Exchange offers specific rates and credits in its fees schedule, like those of other options exchanges' fees schedules, which the Exchange believes provides incentives to Members to increase order flow of certain qualifying orders.

The Exchange believes that its proposal to remove the 1,000 contract cap limitation per leg of cPRIME Agency Orders and the associated waiver of same, and the proposed per contract credit rebate table will encourage Priority Customer order flow to auctions. Increased Priority Customer order flow benefits all market participants because it continues to attract liquidity to the Exchange by providing more trading opportunities. This attracts Market Makers and other liquidity providers, thus, facilitating

price improvement in the auction process, signaling additional corresponding increase in order flow from other market participants, and, as a result, increasing liquidity on the Exchange.

The Exchange believes that its proposal to adopt a tiered approach to rebates for cPRIME Agency Orders for Priority Customers is consistent with Section 6(b)(4) of the Act in that the proposal is reasonable, equitable and not unfairly discriminatory. As noted above, the Exchange operates in a highly competitive market. The Exchange is only one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. The Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory in that competing options exchanges offer similar fees and credits in connection with similar price improvement auctions.<sup>25</sup>

cPRIME Agency Orders for Priority Customers that have a max leg size of 1,000 contracts or less will continue to receive the agency credit described in PCRP Tier 1–4, unless the Member is eligible to receive the alternative cPRIME Agency Order Credit amount for cPRIME Agency Orders in Tier 4 of the PCRP, in which case the order will earn a per contract credit of \$0.12.<sup>26</sup> The Exchange believes that establishing a 1,000 contract threshold is not new or novel as other exchanges have different pricing and rates (*i.e.*, caps) for volume over 1,000 contracts.<sup>27</sup>

The Exchange's proposal to adopt a new table to provide a tiered credit rate for cPRIME Agency Orders for Priority Customers whose largest leg size is greater than 1,000 contracts is consistent with Section 6(b)(4) of the Act<sup>28</sup> because it applies equally to all participants of the PCRP. The Exchange believes that the proposed rebate structure is fair, equitable and not unreasonably discriminatory. The PCRP is reasonably designed because it will continue to provide an incentive to providers of Priority Customer order flow to send that Priority Customer order flow to the Exchange to receive a credit in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all participants. The

<sup>25</sup> See Cboe Fee Schedule, "Break-Up Credits," available at [https://cdn.cboe.com/resources/membership/Cboe\\_FeeSchedule.pdf](https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf).

<sup>26</sup> See *supra* note 18.

<sup>27</sup> See Cboe Fees Schedule, p.2; see also NYSE American Fee Schedule, p. 18, footnote 2 under Section I.G.

<sup>28</sup> 15 U.S.C. 78f(b)(4).

<sup>20</sup> See *supra* note 18.

<sup>21</sup> 15 U.S.C. 78f(b).

<sup>22</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>23</sup> See [https://www.cboe.com/us/options/market\\_share/](https://www.cboe.com/us/options/market_share/).

<sup>24</sup> See Securities Exchange Act Release No. 85301 (March 13, 2019), 84 FR 10166 (March 19, 2019) (SR-MIAX-2019-09).

Exchange conducted an internal analysis of fees and rebates associated with cPRIME Agency Orders and determined the proposed applicable rates at each Order Break-up %. For pricing and competitive reasons the Exchange determined that the agency credit for Order Break-ups from 0%–40% would be tiered, and that Order Break-ups of greater than 40% would receive a standard agency credit of \$0.10, unless the Member is eligible to receive the alternative cPRIME Agency Order Credit amount for cPRIME Agency Orders in Tier 4 of the PCRP, in which case the order will earn a per contract credit of \$0.12.<sup>29</sup>

In addition, The Exchange believes that its proposal is consistent with Section 6(b)(5) of the Act<sup>30</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because an increase in Priority Customer order flow will bring greater volume and liquidity to the Exchange, which benefits all market participants by providing more trading opportunities and tighter spreads. To the extent Priority Customer order flow is increased by this proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and provided narrower and larger-sized quotations in the effort to trade with such Priority Customer order flow.

The Exchange believes that providing rebates for Priority Customers that submit cPRIME Agency Orders is equitable and not unfairly discriminatory because the proposed rebate schedule will apply equally to all cPRIME Agency Orders for Priority Customers. The Exchange believes that the application of the rebate is equitable and not unfairly discriminatory because, as stated above, Priority Customer order flow enhances liquidity on the Exchange, in turn providing more trading opportunities and attracting other market participants, thus, facilitating tighter spreads, increased order flow and trading opportunities to the benefit of all market participants. Moreover, the options industry has a long history of providing preferential pricing to Priority Customer orders, and the Exchange's current fees schedule currently does so in many places, as does the fee structure of at least one other exchange.<sup>31</sup>

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,<sup>32</sup> the Exchange does not believe that the proposed rule change will impose any burden on intra-market or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional liquidity to price improvement auctions, thereby promoting market depth, price discovery and transparency and enhancing order execution and price improvement opportunities for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."<sup>33</sup>

The Exchange does not believe that its proposal will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes will apply uniformly to all eligible Priority Customer orders. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that this proposal will continue to encourage Members to submit cPRIME Agency Orders for Priority Customers, which will increase liquidity and benefit all market participants by providing more trading opportunities and tighter spreads. The Exchange notes the fact that preferential pricing to Priority Customers is a long-standing options industry practice. The proposed rebate changes serve to enhance Priority Customer order flow to the Exchange's Price Improvement Mechanism, which, as a result, facilitates increased liquidity and execution opportunities to the benefit of all market participants.

The Exchange also does not believe that its proposal will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because, as noted above, at least one other competing options exchange<sup>34</sup> currently has similar rebates in place in connection with similar price improvement auctions. Additionally, and as previously discussed, the Exchange operates in a highly

competitive market. Members have numerous alternative venues that they participate on and direct their order flow to, including 15 other options exchanges, many of which offer substantially similar price improvement auctions. Based on publicly available information, no single options exchange has more than 16% of the market share.<sup>35</sup> Therefore, no exchange possesses significant pricing power in the execution of option order flow. Participants can readily choose to send their orders to other exchanges if they deem fee levels at those other exchanges to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>36</sup> The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit states as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . ."<sup>37</sup> Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Accordingly, the Exchange believes that the proposed changes will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because it will continue to encourage order flow, which provides greater volume and liquidity, benefiting all market participants by providing more

<sup>29</sup> See *supra* note 23.

<sup>30</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

<sup>31</sup> *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

<sup>32</sup> 15 U.S.C. 78f(b)(8).

<sup>33</sup> See Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

<sup>34</sup> See *supra* note 27.

<sup>29</sup> See *supra* note 18.

<sup>30</sup> 15 U.S.C. 78f(b)(4).

<sup>31</sup> See *supra* note 27.

trading opportunities and tighter spreads.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>38</sup> and Rule 19b-4(f)(2)<sup>39</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2021-34 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-MIAX-2021-34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2021-34, and should be submitted on or before August 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>40</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

[FR Doc. 2021-15809 Filed 7-23-21; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-92446; File No. SR-NYSENAT-2021-15]

**Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Rules To Add New Subparagraph (i)(4) to Rule 7.31**

July 20, 2021.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on July 6, 2021, NYSE National, Inc. ("NYSE National" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to its rules to add new subparagraph (i)(4) to Rule 7.31 (Orders and Modifiers) regarding orders designated as "Retail Orders." The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

**1. Purpose**

The Exchange proposes to amend its rules to add new subparagraph (i)(4) to Rule 7.31 (Orders and Modifiers) to add a description of a Retail Order modifier.

**Proposed Rule Change**

The Exchange proposes to amend Rule 7.31 to add new subparagraph (i)(4) to provide for ETP Holders<sup>4</sup> to designate an order with a retail modifier ("Retail Order"). The Exchange proposes that the new "Retail Order" modifier would be used only for purposes of such orders being eligible for different rates on its Schedule of Fees and Rebates ("Fee Schedule"), and is not proposing to add a retail price-improvement program for orders designated as "Retail Orders" pursuant to proposed Rule 7.31(i)(4). Instead, by adding the proposed Retail Modifier to proposed Rule 7.31(i)(4) now, the Exchange will have flexibility in the future to amend its Fee Schedule to add rates designated for "Retail Orders."

<sup>38</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>39</sup> 17 CFR 240.19b-4(f)(2).

<sup>40</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Rules 1.1(h) (definition of ETP) & (i) (definition of ETP Holder).

### Proposed Modifier for “Retail Orders”

To define “Retail Orders,” the Exchange proposes to amend Rule 7.31 (Orders and Modifiers) to add a new subsection (i)(4), titled “Retail Modifier” to establish requirements for Retail Orders on the Exchange. These requirements are based on the requirements to enter orders with “retail” modifiers for purposes of rates available for such orders on the Exchange’s affiliates, NYSE American LLC (“NYSE American”), New York Stock Exchange, LLC (“NYSE”), and NYSE Arca, Inc. (“NYSE Arca”).<sup>5</sup>

Proposed Rule 7.31(i)(4)(A) would define “Retail Order” as an agency order or a riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by an ETP Holder, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. This proposed rule is based on NYSE American Rule 7.31E(i)(4)(A) without any differences.

Proposed Rule 7.31(i)(4)(B) would specify that in order for an ETP Holder to access the proposed Retail Order pricing, the ETP Holder would be required to designate an order as a Retail Order in the form and/or manner prescribed by the Exchange. This proposed rule is based on NYSE American Rule 7.31E(i)(4)(B) without any differences.

Proposed Rule 7.31(i)(4)(C) would specify that in order to submit a Retail Order, an ETP Holder must submit an attestation, in a form prescribed by the Exchange, that substantially all orders designated as “Retail Orders” would meet the requirements set out in the definition above. This proposed rule is based on NYSE American Rule 7.31E(i)(4)(C) without any differences.

Proposed Rule 7.31(i)(4)(D) would specify that an ETP Holder must have written policies and procedures reasonably designed to assure that it

would only designate orders as “Retail Orders” if all requirements of a Retail Order are met. Such written policies and procedures must require the ETP Holder to (i) exercise due diligence before entering a Retail Order to assure that entry as a Retail Order is in compliance with the requirements specified by the Exchange, and (ii) monitor whether orders entered as Retail Orders meet the applicable requirements. If an ETP Holder represents Retail Orders from another broker-dealer customer, the ETP Holder’s supervisory procedures must be reasonably designed to assure that the orders it receives from such broker-dealer customer that it designates as Retail Orders meet the definition of a Retail Order. The ETP Holder must (i) obtain an annual written representation, in a form acceptable to the Exchange, from each broker-dealer customer that sends it orders to be designated as Retail Orders that entry of such orders as Retail Orders would be in compliance with the requirements specified by the Exchange, and (ii) monitor whether its broker-dealer customer’s Retail Order flow continues to meet the applicable requirements. This proposed rule is based on NYSE American Rule 7.31E(i)(4)(D) without any differences.

Proposed Rule 7.31(i)(4)(E) would specify that an ETP Holder that fails to abide by the requirements specified in paragraphs (i)(4)(A)–(D) of Rule 7.31 would not be eligible for the Retail Order rates for orders it designates as “Retail Orders.” This proposed rule is based on NYSE American Rule 7.31E(i)(4)(E) without any differences.

### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Sections 6(b)(5) of the Act,<sup>7</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed amendment to Rule 7.31(i) to add a Retail Modifier would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed requirements are based on existing requirements for orders designated as “retail” on NYSE American, NYSE, and NYSE Arca for purposes of fees and credits on those exchanges, and therefore are not novel. In addition, the proposed designation, attestation, and written policies and procedures are also based on existing procedures for similarly-defined orders on NYSE American, NYSE, and NYSE Arca, and therefore are not novel.<sup>8</sup> The Exchange believes that the proposed requirements to submit attestations and to maintain written policies and procedures are not unfairly discriminatory, because they would apply equally to all ETP Holders that seek to enter Retail Orders.

The Exchange further believes that adding the proposed Retail Modifier to its rules in advance of amending its Fee Schedule to add rates for Retail Orders would remove impediments to and perfect the mechanism of a free and open market and a national market system because by adding the Retail Modifier now, the Exchange will have more flexibility in the future to amend its Fee Schedule to add rates specific to Retail Orders pursuant to a proposed rule change filed under Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b–4(f)(2)<sup>10</sup> thereunder.

The proposed retail modifier for purposes of providing different rates for “Retail Orders” is also based in part on the availability of such modifiers on the Nasdaq Stock Market LLC (“Nasdaq”) and Choe EDGX Exchange, Inc. (“EDGX”), which both offer pricing for orders designated as “retail” under their respective rules, even in the absence of a retail price improvement program. For example, Nasdaq defines the term “Designated Retail Order” on its Price List as:

[A]n agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 and that originates from a natural person and is submitted to Nasdaq by a member that designates it pursuant to this section, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate

<sup>5</sup> See Securities Exchange Act Release Nos. 92254 (June 24, 2021) (SR–NYSEAMER–2021–31) (approving the addition of “retail” order modifier at NYSE American Rule 7.31E(i)(4)); 72253 (May 27, 2014), 79 FR 31353 (June 2, 2014) (SR–NYSE–2014–26) (approving the addition of “retail” order modifier at NYSE Rule 13(f)); and 67540 (July 30, 2012), 77 FR 46539 (August 3, 2012) (SR–NYSEArca–2012–77) (approving the addition of “retail” order modifier on NYSE Arca). These requirements are distinct from, but related to, the requirements for a “Retail Order” on the Retail Liquidity Programs available on NYSE and NYSE Arca. See NYSE Rule 7.44 and NYSE Arca Rule 7.44–E. The Exchange does not offer a “Retail Liquidity Program.”

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> As noted above (*see supra* note 5), the proposed changes are based not on the Retail Liquidity Programs available on NYSE and NYSE Arca, but on the availability of retail fees on those exchanges for orders properly designated as “retail” orders.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b–4(f)(2).

from a trading algorithm or any other computerized methodology. An order from a “natural person” can include orders on behalf of accounts that are held in a corporate legal form—such as an Individual Retirement Account, Corporation, or a Limited Liability Company—that has been established for the benefit of an individual or group of related family members, provided that the order is submitted by an individual. Members must submit a signed written attestation, in a form prescribed by Nasdaq, that they have implemented policies and procedures that are reasonably designed to ensure that substantially all orders designated by the member as “Designated Retail Orders” comply with these requirements. Orders may be designated on an order by-order basis, or by designating all orders on a particular order entry port as Designated Retail Orders.<sup>11</sup>

Nasdaq does not have a corresponding definition of “Designated Retail Order” in its trading rules.

#### *B. Self-Regulatory Organization’s Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,<sup>12</sup> the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed rule change would promote competition because it is based on the availability of similar “retail” modifiers on NYSE American, NYSE, NYSE Arca, Nasdaq, and EDGX. More specifically, multiple other cash equity exchanges offer pricing for orders designated as “retail” orders, even in the absence of a retail price improvement program on those exchanges.<sup>13</sup> The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by providing the Exchange with the flexibility to amend its Fee Schedule to similarly provide pricing for orders designated as Retail Orders.

#### *C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6)<sup>15</sup> thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSENAT-2021-15 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

All submissions should refer to File Number SR-NYSENAT-2021-15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSENAT-2021-15 and should be submitted on or before August 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2021-15822 Filed 7-23-21; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>11</sup> Nasdaq Equity 7, section 118; *see also* Choe EDGX Rule 11.21 (defining “Retail Order” and establishing attestation requirement to access preferential pricing for such orders).

<sup>12</sup> 15 U.S.C. 78f(b)(8).

<sup>13</sup> *See supra* notes 5, 11.

<sup>16</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92453; File No. SR–NYSEArca–2021–63]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust<sup>SM</sup> Series (“QQQ”) ETF Trust

July 21, 2021.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on July 12, 2021, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.4–O to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Options Series Program on the Invesco QQQ Trust<sup>TM</sup> Series (“QQQ”) ETF Trust. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of this filing is to amend Rule 6.4–O, Series of Options Open for Trading, to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Options Series Program (“Program”) on QQQ.

A Short Term Options Series is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration.<sup>4</sup> The Exchange is proposing to amend Rule 6.4–O Commentary .07(g) to permit the listing of options series that expire on Mondays and Wednesdays in QQQ.

##### Monday Expirations

As proposed, with respect to Monday QQQ Expirations within Rule 6.4–O Commentary .07, the Exchange may open for trading on any Friday or Monday that is a business day series of options on QQQ to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series on the same class expire (“Monday QQQ Expirations”), provided that Monday QQQ Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Monday QQQ Expirations at one time; the Exchange may have no more than a total of five Monday QQQ Expirations.<sup>5</sup>

##### Wednesday Expirations

As proposed, with respect to Wednesday QQQ Expirations within Rule 6.4–O Commentary .07, the Exchange may open for trading on any Tuesday or Wednesday that is a

business day series of options on QQQ to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series on the same class expire (“Wednesday QQQ Expirations”). The Exchange may list up to five consecutive Wednesday QQQ Expirations at one time; the Exchange may have no more than a total of five Wednesday QQQ Expirations.

##### Monday and Wednesday Expirations

The interval between strike prices for the proposed Monday and Wednesday QQQ Expirations will be the same as those for the current Short Term Option Series for Wednesday and Friday expirations applicable to the Program.<sup>6</sup> Specifically, the Monday and Wednesday QQQ Expirations will have a \$0.50 strike interval minimum.<sup>7</sup> As is the case with other equity options series listed pursuant to the Program, the Monday and Wednesday QQQ Expirations series will be P.M. settled.

Pursuant to Rule 6.1–O,<sup>8</sup> with respect to the Program, if Monday is not a business day the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. Pursuant to Rule 6.1–O<sup>9</sup> a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, e.g., Tuesday of that week, if the Wednesday is not a business day. For purposes of QQQ, however, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day, e.g., the previous Friday, since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. Nasdaq PHLX LLC (“Phlx”) uses the same procedure for QQQ with Monday and Wednesday expirations.<sup>10</sup> Nasdaq Phlx<sup>11</sup> and Nasdaq ISE, LLC (“ISE”)<sup>12</sup> also use the same procedure for options on the Nasdaq-100<sup>®</sup> (“NDX”) with Monday expirations that are listed pursuant to its Nonstandard Expirations

<sup>4</sup> See NYSE Arca Rule 6.1–O(b)41. Short Term Option Series.

<sup>5</sup> The Exchange proposes to make a clarifying change to Rule 6.4–O Commentary .07(g) to make clear that the Exchange may have no more than a total of five each of Wednesday SPY Expirations and Wednesday QQQ Expirations and a total of five each of Monday SPY Expirations and Monday QQQ Expirations. The Exchange also proposes to make a non-substantive change to add the word “business” before “day” in the first sentence of Rule 6.4–O Commentary .07(g).

<sup>6</sup> See NYSE Arca Rule 6.4–O Commentary .07(g).

<sup>7</sup> See NYSE Arca Rule 6.4–O Commentary .07(e).

<sup>8</sup> Rule 6.1–O, Definition of “Short Term Option Series.”

<sup>9</sup> *Id.*

<sup>10</sup> See Securities Exchange Act Release No. 91238 (March 2, 2021), 86 FR 13404 (March 8, 2021) (SR–Phlx–2021–10).

<sup>11</sup> See Phlx Options 4A, Section 12(b)(5).

<sup>12</sup> See ISE Supplementary Material .07 to Options 4A, Section 12.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

Pilot Programs, respectively. Cboe Exchange, Inc. ("Cboe") uses the same procedure for options on the S&P500 index ("SPX") with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.<sup>13</sup>

Currently, for each option class eligible for participation in the Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.<sup>14</sup> The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term options rules; the Exchange may list these additional series that are listed by other exchanges.<sup>15</sup> This thirty (30) series restriction would apply to Monday and Wednesday QQQ Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list QQQ options expiring on Mondays and Wednesdays.

Finally, the Exchange is amending Rule 6.4—O Commentary .07(a), which addresses the listing of Short Term Options Series that expire in the same week as monthly or quarterly options series. Currently, that rule states that no Short Term Option Series may expire in the same week in which monthly option series on the same class expire (with the exception of Monday and Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Options Series on the same class.<sup>16</sup> As with Monday and Wednesday SPY Expirations, the Exchange is proposing to permit Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class. The Exchange believes that it is reasonable to extend this exemption to Monday and Wednesday QQQ Expirations because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday and Wednesday QQQ Expirations for one

week every month because there was a monthly QQQ expiration on the Friday of that week would create investor confusion.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Monday and Wednesday QQQ expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY and has not experienced any market disruptions nor issues with capacity. The Exchange currently has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY.

Similar to SPY, the introduction of Monday and Wednesday QQQ Expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that Monday and Wednesday QQQ Expirations will allow market participants to purchase QQQ based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

## 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>17</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>18</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is intended to provide the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Program has been successful to date and that Monday and Wednesday QQQ Expirations should simply expand the ability of investors to hedge risk against

market movements stemming from economic releases or market events that occur throughout the month in the same way that the Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday and Wednesday QQQ Expirations should create greater trading and hedging opportunities and flexibility, and will provide customers with the ability to tailor their investment objectives more effectively. The Exchange currently lists Monday and Wednesday SPY Expirations.<sup>19</sup> Also, Cboe<sup>20</sup> currently permits Monday and Wednesday expirations for other options with a weekly expiration, such as options on the SPX pursuant to its Nonstandard Expirations Pilot Program and Phlx<sup>21</sup> and ISE<sup>22</sup> currently permit Monday and Wednesday expirations for other options with a weekly expiration on NDX pursuant to its Nonstandard Expirations Pilot Programs, respectively.

With the exception of Monday expiration series that are scheduled to expire on a holiday, there are no material differences in the treatment of Monday and Wednesday QQQ Expirations for Short Term Option Series. The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are currently treated in this manner.<sup>23</sup> Cboe<sup>24</sup> uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx<sup>25</sup> and ISE<sup>26</sup> for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

Given the similarities between Monday and Wednesday SPY Expirations and the proposed Monday and Wednesday QQQ Expirations, the Exchange believes that applying the provisions in NYSE Arca Rule 6.4—O Commentary .07 that currently apply to Monday and Wednesday SPY

<sup>13</sup> See Cboe Rule 4.13(e)(1) " . . . If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day."

<sup>14</sup> See NYSE Arca Rule 6.4—O Commentary .07.

<sup>15</sup> *Id.*

<sup>16</sup> See NYSE Arca Rule 6.4—O Commentary .07(a).

<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> *Supra* note 14.

<sup>20</sup> *Supra* note 13.

<sup>21</sup> *Supra* note 11.

<sup>22</sup> *Supra* note 12.

<sup>23</sup> *Supra* note 14.

<sup>24</sup> *Supra* note 13.

<sup>25</sup> *Supra* note 11.

<sup>26</sup> *Supra* note 12.

Expirations to Monday and Wednesday QQQ Expirations is justified. For example, the Exchange believes that allowing Monday and Wednesday QQQ Expirations and monthly QQQ expirations in the same week will benefit investors and minimize investor confusion by providing Monday and Wednesday QQQ Expirations in a continuous and uniform manner. The Exchange also believes that it is appropriate to amend NYSE Arca Rule 6.4–O Commentary .07 to clarify that no Short Term Option Series may expire on the same day as an expiration of Quarterly Option Series on the same class, same as SPY.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday QQQ Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Monday and Wednesday QQQ Expirations.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that having Monday and Wednesday QQQ Expirations is not a novel proposal, as Monday and Wednesday SPY Expirations are currently listed on the Exchange.<sup>27</sup> Choe<sup>28</sup> uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx<sup>29</sup> and ISE<sup>30</sup> for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as

nothing prevents the other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Monday and Wednesday expirations.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>31</sup> and Rule 19b–4(f)(6) thereunder.<sup>32</sup>

A proposed rule change filed under Rule 19b–4(f)(6)<sup>33</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),<sup>34</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.<sup>35</sup> The Exchange has stated that waiver of the operative delay is consistent with the protection of investors and the public interest as it would encourage fair competition among exchanges by allowing the Exchange to compete effectively with Phlx by having the ability to list and trade the same Monday and Wednesday QQQ Expirations that Phlx is able to list and

trade. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.<sup>36</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR–NYSEArca–2021–63 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2021–63. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

<sup>31</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>32</sup> 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>33</sup> 17 CFR 240.19b–4(f)(6).

<sup>34</sup> 17 CFR 240.19b–4(f)(6)(iii).

<sup>35</sup> See Securities Exchange Act Release No. 91614 (April 20, 2021), 86 FR 22082 (April 26, 2021) (SR–Phlx–2021–10).

<sup>36</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>27</sup> *Supra* note 14.

<sup>28</sup> *Supra* note 13.

<sup>29</sup> *Supra* note 11.

<sup>30</sup> *Supra* note 12.

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2021-63, and should be submitted on or before August 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>37</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

[FR Doc. 2021-15832 Filed 7-23-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 2:00 p.m. on Thursday, July 29, 2021.

**PLACE:** The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

**STATUS:** This meeting will be closed to the public.

#### MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5

U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

#### CONTACT PERSON FOR MORE INFORMATION:

For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Dated: July 22, 2021.

**Vanessa A. Countryman,**  
*Secretary.*

[FR Doc. 2021-15936 Filed 7-22-21; 11:15 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting; Cancellation

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 86 FR 38391, July 20, 2021.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** Thursday, July 22, 2021 at 2:00 p.m.

**CHANGES IN THE MEETING:** The Closed Meeting scheduled for Thursday, July 22, 2021 at 2:00 p.m., has been cancelled.

#### CONTACT PERSON FOR MORE INFORMATION:

For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Dated: July 21, 2021.

**Vanessa A. Countryman,**  
*Secretary.*

[FR Doc. 2021-15907 Filed 7-22-21; 11:15 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92451; File No. 4-698]

### Joint Industry Plan; Order Instituting Proceedings To Determine Whether To Approve or Disapprove an Amendment to the National Market System Plan Governing the Consolidated Audit Trail

July 20, 2021.

#### I. Introduction

On March 31, 2021, the Operating Committee for Consolidated Audit Trail, LLC ("CAT LLC" or the "Company"), on behalf of the following parties to the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan"):<sup>1</sup> BOX Exchange LLC; Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc. ("FINRA"), Investors Exchange LLC, Long-Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MEMX, LLC, MIA Exchange, LLC, MIA PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, the "Participants," "self-regulatory organizations," or "SROs") filed with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Exchange Act"),<sup>2</sup> and Rule 608 thereunder,<sup>3</sup> a proposed amendment ("Proposed Amendment") to the CAT NMS Plan to implement a revised funding model ("Proposed Funding Model") for the consolidated audit trail ("CAT") and to establish a fee schedule for Participant CAT fees in accordance with the Proposed Funding Model ("Participant Fee Schedule"). The Proposed Amendment was published for comment in the **Federal Register** on April 21, 2021.<sup>4</sup>

<sup>1</sup> The CAT NMS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act and the rules and regulations thereunder. See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

<sup>2</sup> 15 U.S.C. 78k-1(a)(3).

<sup>3</sup> 17 CFR 242.608.

<sup>4</sup> See Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail, Release No. 91555 (April 14, 2021), 86 FR 21050 ("Notice"). Comments received in response to the Notice can be found on

<sup>37</sup> 17 CFR 200.30-3(a)(12).

This order institutes proceedings, under Rule 608(b)(2)(i) of Regulation NMS,<sup>5</sup> to determine whether to disapprove the Proposed Amendment or to approve the Proposed Amendment with any changes or subject to any conditions the Commission deems necessary or appropriate after considering public comment.

## II. Background

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the SROs to submit a national market system (“NMS”) plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities.<sup>6</sup> On November 15, 2016, the Commission approved the CAT NMS Plan.<sup>7</sup> Under the CAT NMS Plan, the Operating Committee of the Company, of which each Participant is a member, has the discretion (subject to the funding principles set forth in the Plan) to establish funding for the Company to operate the CAT, including establishing fees to be paid by the Participants and Industry Members.<sup>8</sup>

The Plan specified that, in establishing the funding of the Company, the Operating Committee shall establish “a tiered fee structure in which the fees charged to: (1) CAT Reporters<sup>9</sup> that are Execution Venues,<sup>10</sup> including ATSs,<sup>11</sup> are based upon the level of market share; (2) Industry Members’ non-ATS activities are based upon message traffic; and (3) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues

and/or Industry Members).”<sup>12</sup> Under the Plan, such fees are to be implemented in accordance with various funding principles, including an “allocation of the Company’s related costs among Participants and Industry Members that is consistent with the Exchange Act taking into account . . . distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company resources and operations” and the “avoid[ance of] any disincentives such as placing an inappropriate burden on competition and reduction in market quality.”<sup>13</sup>

On May 15, 2020, the Commission adopted amendments to the CAT NMS Plan designed to increase the Participants’ financial accountability for the timely completion of the CAT (“Financial Accountability Amendments”).<sup>14</sup> The Financial Accountability Amendments added Section 11.6 to the CAT NMS Plan to govern the recovery from Industry Members of any fees, costs, and expenses (including legal and consulting fees, costs and expenses) incurred by or for the Company in connection with the development, implementation and operation of the CAT from June 22, 2020 until such time that the Participants have completed Full Implementation of CAT NMS Plan Requirements<sup>15</sup> (“Post-Amendment Expenses”). Section 11.6 establishes target deadlines for four critical implementation milestones (Periods 1, 2, 3 and 4)<sup>16</sup> and reduces the amount of fee recovery available to the

Participants if these deadlines are missed.<sup>17</sup>

On April 21, 2021, the Nasdaq and Cboe Participants<sup>18</sup> filed proposed rule changes to adopt a fee schedule to establish CAT fees applicable to their Industry Members<sup>19</sup> in accordance with the Proposed Funding Model (the “Industry Member Fee Filings”). In the Industry Member Fee Filings, the Nasdaq and Cboe Participants stated that the fee schedule provisions will become operative upon the Commission’s approval of the Proposed Amendment. On June 17, 2021, the Commission temporarily suspended the Nasdaq and Cboe Participants’ Industry Member Fee Filings and instituted proceedings to determine whether those filings should be approved or disapproved.<sup>20</sup>

## III. Summary of Proposal

Under the Proposed Amendment, the Operating Committee proposes to revise certain aspects of the funding model set forth in Article XI of the CAT NMS Plan (the “Original Funding Model”). The Original Funding Model uses a bifurcated funding approach in which costs associated with building and operating the CAT would be borne by (1) Industry Members (other than ATSs that execute transactions in Eligible Securities<sup>21</sup> (“Execution Venue ATSs”)) through fixed tiered fees based on message traffic for Eligible Securities, and (2) Participants and Industry

<sup>17</sup> *Id.* at Section 11.6(a)(ii) and (iii).

<sup>18</sup> Cboe BYX Exchange, Inc. (“CboeBYX”), Cboe BZX Exchange, Inc. (“CboeBZX”), Cboe C2 Exchange, Inc. (“C2”), Cboe EDGA Exchange, Inc. (“Cboe EDGA”), Cboe EDGX Exchange, Inc. (“Cboe EDGX”), Cboe Exchange, Inc. (“Cboe”), NASDAQ BX, Inc. (“BX”), Nasdaq GEMX, LLC (“GEMX”), Nasdaq ISE, LLC (“ISE”), Nasdaq MRX, LLC (“MRX”), NASDAQ PHILX LLC (“Phlx”), The NASDAQ Stock Market LLC (“Nasdaq”) (collectively, the “Nasdaq and Cboe Participants”).

<sup>19</sup> See Securities Exchange Act Release Nos. 91750 (May 4, 2021), 86 FR 25045 (May 10, 2021) (SR-BX–2021–018) (“Proposed Fee Filing Notice”); 91751 (May 4, 2021), 86 FR 24941 (May 10, 2021) (SR-PHLX–2021–25); 91752 (May 4, 2021), 86 FR 24921 (May 10, 2021) (SR-NASDAQ–2021–029); 91753 (May 4, 2021), 86 FR 24994 (May 10, 2021) (SR-MRX–2021–05); 91755 (May 4, 2021), 86 FR 25035 (May 10, 2021) (SR-ISE–2021–08); 91756 (May 4, 2021), 86 FR 24979 (May 10, 2021) (SR-GEMX–2021–03); 91757 (May 4, 2021), 86 FR 24911 (May 10, 2021) (SR-C2–2021–008); 91758 (May 4, 2021), 86 FR 25004 (May 10, 2021) (SR-CboeEDGX–2021–024); 91759 (May 4, 2021), 86 FR 24956 (May 10, 2021) (SR-CboeEDGA–2021–010); 91760 (May 4, 2021), 86 FR 24966 (May 10, 2021) (SR-CBOE–2021–030); 91761 (May 4, 2021), 86 FR 25016 (May 10, 2021) (SR-CboeBYX–2021–011); and 91762 (May 4, 2021), 86 FR 24931 (May 10, 2021) (SR-CboeBZX–2021–034).

<sup>20</sup> See Securities Exchange Act Release No. 92207 (June 17, 2021), 86 FR 33448 (June 24, 2021).

<sup>21</sup> The CAT NMS Plan defines “Eligible Securities” as including NMS securities and OTC Equity Securities.” See CAT NMS Plan, *supra* note 1, at Section 1.1.

the Commission’s website at <https://www.sec.gov/comments/4-698/4-698-a.htm>.

<sup>5</sup> 17 CFR 242.608(b)(2)(i).

<sup>6</sup> 17 CFR 242.613.

<sup>7</sup> See *supra* note 1.

<sup>8</sup> The CAT NMS Plan defines “Industry Member” as “a member of a national securities exchange or a member of a national securities association.” See CAT NMS Plan, *supra* note 1, at Section 1.1. See also *id.* at Section 11.1(b).

<sup>9</sup> The CAT NMS Plan defines “CAT Reporter” as “each national securities exchange, national securities association and Industry Member that is required to record and report information to the Central Repository pursuant to SEC Rule 613(c).” *Id.* at Section 1.1.

<sup>10</sup> The CAT NMS Plan defines “Execution Venue” as “a Participant or an alternative trading system (‘ATS’) (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).” *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at Section 11.2(c). See Article XI of the CAT NMS Plan for additional detail.

<sup>13</sup> See CAT NMS Plan, *supra* note 1, at Section 11.2(b) and (e).

<sup>14</sup> See Securities Exchange Act Release No. 88890, 85 FR 31322 (May 22, 2020).

<sup>15</sup> “Full Implementation of CAT NMS Plan Requirements” means “the point at which the Participants have satisfied all of their obligations to build and implement the CAT, such that all CAT system functionality required by Rule 613 and the CAT NMS Plan has been developed, successfully tested, and fully implemented at the initial Error Rates specified by Section 6.5(d)(i) or less, including functionality that efficiently permits the Participants and the Commission to access all CAT Data required to be stored in the Central Repository pursuant to Section 6.5(a), including Customer Account Information, Customer-ID, Customer Identifying Information, and Allocation Reports, and to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any related allocation information provided in an Allocation Report. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).” See CAT NMS Plan, *supra* note 1, at Section 1.1.

<sup>16</sup> *Id.* at Section 11.6(a)(i).

Members that are Execution Venue ATSS for Eligible Securities through fixed tiered fees based on market share. The Operating Committee proposes to amend the CAT NMS Plan to adopt the Proposed Funding Model. The Proposed Funding Model would continue to require many of the same elements as the Original Funding Model, including the bifurcated funding approach, and the use of market share and message traffic.<sup>22</sup> The Proposed Funding Model, however, would revise the Original Funding Model in certain ways, including (1) dividing the CAT costs between Participants and Industry Members, rather than between Execution Venues and Industry Members (other than Execution Venue ATSS); (2) removing share volume in OTC Equity Securities from the calculation of market share for national securities associations; (3) eliminating the use of tiers in calculating CAT fees for Participants and Industry Members; (4) removing from the CAT NMS Plan funding principles the requirement that the fees charged to CAT Reporters with the most CAT-related activity be generally comparable; (5) eliminating references to fixed fees for Participants and Industry Members; (6) adopting certain minimum and maximum CAT fees for Industry Members and Participants; and (7) imposing certain discounts for market making activity when calculating Industry Member CAT fees.

The Operating Committee also proposes to adopt a fee schedule to establish the CAT fees applicable to Participants based on the Proposed Funding Model. The Participant Fee Schedule would establish the allocation percentages and other variables for calculating the CAT fees under the Proposed Funding Model.

#### A. Proposed Funding Model

##### 1. Categorization of Alternative Trading Systems

The Original Funding Model employs a bifurcated approach in which costs associated with building and operating

the CAT would be borne by (1) Participants and Industry Members that are Execution Venue ATSS for Eligible Securities through fees based on market share, and (2) Industry Members (other than Execution Venue ATSS) through fees based on message traffic. Under the Proposed Funding Model, the concept of an Execution Venue would be eliminated, and CAT costs would be divided between Participants as a group and Industry Members as a group; Execution Venue ATSSs would be treated like other Industry Members, instead of like Participants.<sup>23</sup> The Operating Committee explains that this would simplify the Proposed Funding Model by requiring all Industry Members (instead of Industry Members other than Execution Venue ATSSs) to pay fees based on message traffic and would address any concerns that treating Execution Venue ATSSs as Participants would create a barrier to entry for smaller ATSSs.<sup>24</sup> Accordingly, under the Proposed Amendment, the Operating Committee proposes to delete the definition of the term “Execution Venue” and related provisions from the CAT NMS Plan.<sup>25</sup>

##### 2. Treatment of OTC Equity Securities

The Original Funding Model includes reported share volume in OTC Equity Securities in the calculation of market share for national securities associations.<sup>26</sup> The Operating Committee proposes to delete references to OTC Equity Securities from Section 11.3(a)(i) of the CAT NMS Plan. Accordingly, under the Proposed Funding Model, the calculation of market share for national securities associations would be based solely on the share volume of trades reported in NMS Stocks.<sup>27</sup> The Operating Committee explains that the inclusion of OTC Equity Securities share volume in the calculation of market share would likely subject FINRA to higher fees since FINRA would be assessed CAT fees based on market share calculated by share volume, noting that many OTC Equity Securities are priced below one dollar and transactions in such OTC Equity Securities tend to involve larger quantities of shares than transactions in NMS Stocks.<sup>28</sup>

##### 3. No Tiered Fees

The Original Funding Model requires the use of tiered fees for Industry

Members and Participants.<sup>29</sup> The Operating Committee proposes to amend Sections 11.1(d), 11.2(c), 11.3(a) and 11.3(b) of the CAT NMS Plan to eliminate the concept of tiered fees from the CAT NMS Plan.<sup>30</sup> Accordingly, under the Proposed Funding Model, each Industry Member would pay a fee based on its percentage of total Industry Member message traffic (subject to proposed market maker message traffic discounts,<sup>31</sup> a minimum fee<sup>32</sup> and a maximum fee<sup>33</sup>), and each Participant would pay a fee based on market share.<sup>34</sup> The Operating Committee believes that tiered fees require continued reassessment of changes in message traffic, and that these assessments would be subjective and overly complex.<sup>35</sup>

##### 4. Elimination of Fee Comparability Requirement From the CAT NMS Plan Funding Principles

Section 11.2(c) of the CAT NMS Plan requires the Operating Committee to establish a fee structure in which the fees charged to CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable. Section 11.2(c) explains that for comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters. The Operating Committee proposes to remove this requirement from Section 11.2(c) of the Plan. According to the Operating Committee, the comparability provision was used to determine tiers under the Original Funding Model; however, since the Operating Committee proposes to remove fee tiering from the Proposed Funding Model,<sup>36</sup> they believe this provision is no longer relevant.<sup>37</sup>

##### 5. No Fixed Fees

The Operating Committee proposes to amend Sections 11.3(a) and (b) of the Plan to eliminate references to “fixed fees” to be paid by Industry Members and Participants from the CAT NMS Plan.<sup>38</sup> Accordingly, under the Proposed Funding Model, the CAT fees to be paid by Industry Members would

<sup>22</sup> In the description of the Proposed Amendment, the Operating Committee states that message traffic will be calculated based on Industry Members’ Reportable Events reported to the CAT, as defined in the CAT Reporting Technical Specifications for Industry Members (“IM Reporting Tech Specs”), and that Reporting Events in the current IM Reporting Tech Specs that will be counted as message traffic include the New Order Event, the Order Route Event and Trade Event, but will not include reporting activity related to Customer information as established in the CAT Reporting Customer and Account Technical Specifications for Industry Members. The Operating Committee notes that the Reportable Events may vary if the IM Reporting Tech Specs are amended. See Notice, *supra* note 4, at 21056–21057.

<sup>23</sup> *Id.* at 21053.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 21061.

<sup>27</sup> *Id.*

<sup>28</sup> See Notice, *supra* note 4, at 21061.

<sup>29</sup> *Id.* at 21055, 21060.

<sup>30</sup> *Id.*

<sup>31</sup> See *infra* Section III.A.7.

<sup>32</sup> See *infra* Section III.A.6.a.

<sup>33</sup> *Id.*

<sup>34</sup> See Notice, *supra* note 4, at 21055, 21060.

<sup>35</sup> *Id.* at 21056. The Operating Committee notes that it is eliminating tiered fees for Participants for the same reasons it provided with regard to eliminating tiered fees for Industry Members. *Id.*

<sup>36</sup> See *supra* Section III.A.3.

<sup>37</sup> See Notice, *supra* note 4, at 21056.

<sup>38</sup> *Id.* at 21059, 21062.

vary in accordance with their message traffic and the CAT fees to be paid by the Participants would vary in accordance with their market share.<sup>39</sup>

#### 6. Minimum and Maximum Fees

##### a. Minimum and Maximum Industry Member CAT Fees

The Operating Committee proposes to amend Section 11.3(b) of the CAT NMS Plan to provide that each Industry Member would be subject to a base minimum Industry Member CAT fee ("Minimum Industry Member CAT Fee") and a maximum Industry Member CAT fee ("Maximum Industry Member CAT Fee").<sup>40</sup> In the Participants' description of the Proposed Amendment, the Operating Committee states that the Minimum Industry Member CAT Fee would be \$125 per quarter for an Industry Member whose CAT fee would be less than \$125 per quarter, even if it has not yet begun to report to the CAT.<sup>41</sup> If any Industry Member is required to pay the Minimum Industry Member CAT Fee, the total additional amount paid by all such Industry Members over the amount they otherwise would have paid as a result of their message traffic calculation would be discounted from all Industry Members other than those that were subject to a Minimum Industry Member CAT Fee in accordance with their message traffic percentage ("Minimum Industry Member CAT Fee Re-Allocation").<sup>42</sup> The Operating Committee explains that the Minimum Industry CAT Fee is intended to ensure that all Industry Members meaningfully contribute to the funding of the CAT.<sup>43</sup>

The Operating Committee also states that the Maximum Industry Member CAT Fee would be the fee calculated based on 8% of the total message traffic for Industry Members.<sup>44</sup> If an Industry Member's fee is subject to the Maximum Industry Member CAT Fee, any excess amount which the Industry Member would have paid as a fee above such Maximum Industry Member CAT Fee will be re-allocated among all Industry Members (including any Industry Members subject to the Maximum Industry Member CAT Fee and any Industry Members subject to the Minimum Industry Member CAT Fee) in accordance with their percentage of

total message traffic ("Maximum Industry Member CAT Fee Re-Allocation").<sup>45</sup> The Operating Committee explains that the Maximum Industry Member CAT Fee is intended to act as a cap on fees for certain Industry Members that, based on message traffic alone, may be subject to "a significant allocation of Total CAT Costs."<sup>46</sup>

##### b. Minimum Participant Fee

The Operating Committee proposes to amend Section 11.3(a) of the CAT NMS Plan to impose a minimum fee to be payable by each Participant ("Minimum Participant Fee") in addition to fees based on market share. The Operating Committee explains that this fee would "ensure that all Participants provide a meaningful contribution to the funding of the CAT"<sup>47</sup> and facilitate billing and other administrative functions.<sup>48</sup>

##### c. Maximum Equities Participant Fee

The Operating Committee proposes to amend Section 11.3(a)(i) of the CAT NMS Plan to provide that any Participant that is a national securities association shall pay a maximum fee established by the Operating Committee ("Maximum Equities Participant Fee") instead of the higher fee calculated based on such Participant's market share. If a Participant's fee is limited to such maximum fee, any excess amount which the Participant otherwise would have paid as a fee above such maximum amount will be re-allocated among all Equities Participants, including any Equities Participants that are subject to the maximum fee, in accordance with their market share.<sup>49</sup> The Operating Committee explains that FINRA could have a significant allocation of the CAT fees due to the large volume of NMS Stock activity subject to trade reporting on FINRA facilities, so the Maximum Equities Participant Fee would cap the costs allocated to FINRA. In addition, the Operating Committee states that, as one of the largest regulatory users of CAT, FINRA should pay a proportionate percentage of the CAT fees commensurate with its market share, and that market share is a "fair and reasonable basis for assessing regulatory usage, expense and burden among the Participants."<sup>50</sup>

#### 7. Market Maker Discounts

The Operating Committee proposes to amend Section 11.3(b) of the CAT NMS

Plan to add market maker message traffic discounts to the Proposed Funding Model. Under the Original Funding Model, there is no distinction between the treatment of message traffic for market maker Industry Members and message traffic for non-market maker Industry Members for purposes of calculating Industry Member CAT fees. The Operating Committee explains that the proposed discounts are intended to address concerns raised previously that treating market maker message traffic the same as other message traffic for purposes of calculating Industry Member CAT fees would disproportionately impact market makers because of their continuous quoting obligations and result in an undue or inappropriate burden on competition or a reduction in liquidity and market quality.<sup>51</sup> The Operating Committee believes that the proposed discounts would lower CAT fees for market makers and encourage their provision of liquidity to the market.<sup>52</sup>

In the Participants' description of the Proposed Amendment, the Operating Committee states that Options Market Maker message traffic would be discounted based on the trade-to-quote ratio for options when calculating the message traffic of an Industry Member that is an Options Market Maker,<sup>53</sup> and that the trade-to-quote ratio for the Options Market Maker discount would be calculated each quarter based on the prior quarter's CAT Data.<sup>54</sup> The proposed discount would be calculated by dividing the adjusted trade count<sup>55</sup> by the total number of quotes received by the securities information processors ("SIP") from an exchange.<sup>56</sup> Each

<sup>51</sup> *Id.* at 21057. *See also* Securities Exchange Act Release No. 81067 (June 30, 2017), 82 FR 31656 (July 7, 2017) ("Suspension of and Order Instituting Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Changes to Establish Fees for Industry Members to Fund the Consolidated Audit Trail").

<sup>52</sup> *See* Notice, *supra* note 4, at 21057.

<sup>53</sup> *Id.* at 21058. The CAT NMS Plan defines "Options Market Maker" as "a broker-dealer registered with an exchange for the purpose of making markets in options contracts traded on the exchange." *See* CAT NMS Plan, *supra* note 1, at Section 1.1.

<sup>54</sup> The CAT NMS Plan defines "CAT Data" as "data derived from Participant Data, Industry Member Data, SIP Data, and such other data as the Operating Committee may designate as 'CAT Data' from time to time." *Id.*

<sup>55</sup> The Proposed Amendment describes the adjusted trade count as "the total number of trades for the quarter minus the total number of trade busts." *See* Notice, *supra* note 4, at 21058.

<sup>56</sup> For each Options Market Maker, the discount would apply to "(1) all message traffic reported to the CAT by the Options Market Maker related to an order originated by a market maker in its market making account for a security in which it is registered . . . and (2) all message traffic for which

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 21058.

<sup>41</sup> *Id.*

<sup>42</sup> Options Market Makers and Equity Market Makers would be required to pay the Minimum Industry Member CAT Fee if their quarterly CAT fee calculated with the market maker discounts is less than \$125 per quarter. *Id.* at 21058, n.56.

<sup>43</sup> *See* Notice, *supra* note 4, at 21058–59.

<sup>44</sup> *Id.* at 21059.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at 21060.

<sup>48</sup> *Id.* at 21059.

<sup>49</sup> *See* Notice, *supra* note 4, at 21061.

<sup>50</sup> *Id.* at 21062.

Options Market Maker's CAT fee would be calculated by multiplying its discounted percentage of total Industry Member message traffic during the relevant time period by the Industry Member Allocation,<sup>57</sup> subject to the Minimum Industry Member CAT Fee and the Maximum Industry Member CAT Fee.<sup>58</sup>

Under the Proposed Funding Model, when calculating the message traffic of an Industry Member that is an equity market maker in NMS Stocks ("Equity Market Maker"), its discounted market making message traffic count would be calculated by multiplying its market making message traffic in NMS Stocks by the NMS Stock trade-to-quote ratio.<sup>59</sup> In the Participants' description of the Proposed Amendment, the Operating Committee states that the trade-to-quote ratio would be calculated each quarter based on the prior quarter's CAT Data.<sup>60</sup> The proposed discount would be calculated by dividing the adjusted trade count by the total number of quotes received by the SIP from an exchange. The Equity Market Maker's CAT fee would be calculated by multiplying its discounted percentage of total Industry Member message traffic during the relevant time period by the Industry Member Allocation,<sup>61</sup> subject to the Minimum Industry Member CAT Fee and the Maximum Industry Member CAT Fee.<sup>62</sup> The discounted message traffic of Options Market Makers and Equity Market Makers would be counted as part of total Industry Member message traffic.<sup>63</sup>

#### B. Participant Fee Schedule

##### 1. Total CAT Costs

Under the Proposed Funding Model, the CAT fees for the relevant period would be designed to cover the total CAT costs associated with developing, implementing and operating the CAT for the relevant period ("Total CAT Costs").<sup>64</sup> In the proposed Participant Fee Schedule, the Operating Committee proposes to define Total CAT Costs as "the total budgeted costs for the CAT for the relevant year." In addition:

The total budgeted costs for the CAT for the relevant year shall be the total CAT costs set forth in the annual operating budget

approved by the Operating Committee pursuant to Section 11.1(a) of the CAT NMS Plan. The total budgeted costs for the CAT for the relevant year may be adjusted on a quarterly basis as the Operating Committee reasonably deems appropriate for the prudent operation of the Company. To the extent that the Operating Committee adjusts the total budgeted costs for the CAT for the relevant year during its quarterly budget review, the adjusted budgeted costs for the CAT will be used in calculating the remaining CAT fees for that year.<sup>65</sup>

The Operating Committee explains that using Total CAT Costs budgeted for the year, rather than already incurred CAT costs, would allow the Company to collect fees before bills become payable.<sup>66</sup> The Operating Committee notes that, pursuant to Section 11.1(c) of the CAT NMS Plan, any surpluses collected will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.<sup>67</sup>

##### 2. 75%–25% Allocation Between Industry Members and Participants

The Proposed Funding Model contemplates allocating CAT costs between Participants and Industry Members to permit the calculation of CAT fees based on market share for Participants and based on message traffic for Industry Members.<sup>68</sup> The Operating Committee proposes to implement this allocation through a 75%–25% allocation between Industry Members and Participants.<sup>69</sup> The Participant CAT fees that are a part of the proposed Participant Fee Schedule—Appendix B to the Proposed Amendment—would apply this allocation to Participants. Participants would file proposed rule changes to apply this allocation to Industry Members.<sup>70</sup> In calculating CAT fees for the relevant period under the Proposed Funding Model, Industry Members as a group would pay 75% of the Total CAT Costs for the relevant period ("Industry Member Allocation")<sup>71</sup> and Participants

as a group would pay 25% of the Total CAT Costs for the relevant period ("Participant Allocation").<sup>72</sup>

In proposing a 75%–25% allocation between Industry Members and Participants, the Operating Committee states that it considered a variety of different potential allocations between Industry Members and Participants.<sup>73</sup> For example, the Operating Committee states that it considered alternatives in which Participants paid larger contributions than 25% of the total CAT costs (e.g., a 50%–50% allocation between Industry Members and Participants) and alternatives in which Participants paid smaller contributions than 25% of the total CAT costs.<sup>74</sup> In the scenario where the Participants paid larger contributions than the 25% allocation, the Operating Committee believed that this was not fair or equitable to the Participants.<sup>75</sup> The Operating Committee came to this conclusion by assessing the number of Industry Members compared to Participants, noting that "there are only 25 Participants and approximately 1,237 Industry Members, as of December 2020", and analyzing the total revenue, noting that "Participants only represented approximately 4% of the total CAT Reporter revenue; Industry Members represented 96% of the total CAT Reporter revenue."<sup>76</sup> Thus, the Operating Committee determined that allocating more than 25% of the total CAT costs to the Participants was not fair and equitable. Similarly, the Operating Committee did not believe that the revenue based allocation approach would be fair to the Industry Members because it would impose such a significant percentage (96%) of CAT costs on Industry Members.<sup>77</sup> Additionally, the Operating Committee determined that there would be practical difficulties in assessing the appropriate revenue figures for all CAT

Industry Member Allocation, subject to the market maker discounts for message traffic, as applicable, as well as the Minimum Industry Member CAT Fee and the Maximum Industry Member CAT Fee. *Id.*

<sup>72</sup> *Id.* at 21054. The proposed Participant Fee Schedule states "[t]he Participant Allocation for each quarter shall be 25% of 1/4th of the Total CAT Costs for the relevant year." *Id.* at 21055.

<sup>73</sup> *Id.* at 21054.

<sup>74</sup> *Id.*

<sup>75</sup> See Notice, *supra* note 4, at 21055.

<sup>76</sup> Industry Member revenue was calculated based on the total revenue reported in the Industry Member's FOCUS reports. Participant revenue was calculated based on revenue information provided in Form 1 amendments and/or publicly reported figures. Participants are not required to file uniform FOCUS-type reports regarding revenue like Industry Members. Accordingly, the revenue calculation for Participants is not as straightforward as for Industry Members. *Id.* at 21055, n.31.

<sup>77</sup> *Id.* at 21055.

a 'quote sent time' is reported by an Options Exchange on behalf of the given Options Market Maker." *Id.*

<sup>57</sup> See *infra* Section III.B.2.

<sup>58</sup> See Notice, *supra* note 4, at 21058.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> See *infra* Section III.B.2.

<sup>62</sup> See Notice, *supra* note 4, at 21058.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at 21050.

<sup>65</sup> *Id.* at 21074.

<sup>66</sup> *Id.* at 21063.

<sup>67</sup> *Id.*

<sup>68</sup> In the Original Funding Model, costs were allocated between Execution Venues and certain Industry Members, whereas the Proposed Funding Model proposes to allocate costs between Participants and Industry Members.

<sup>69</sup> See Notice, *supra* note 4, at 21054.

<sup>70</sup> As of the date of this Order, only the Nasdaq and Cboe Participants have filed proposed rule changes. See *supra* note 19.

<sup>71</sup> The proposed Participant Fee Schedule states "[t]he Industry Member Allocation for each quarter shall be 75% of 1/4th of the Total CAT Costs for the relevant year." See Notice, *supra* note 4, at 21055. Under the Proposed Funding Model, each Industry Member would pay a CAT fee calculated by multiplying its message traffic percentage of total Industry Member message traffic per quarter by the

Reporters. Based upon its analysis, the Operating Committee decided that alternative approaches based upon revenue were not appropriate and could potentially have unfair impacts on both the Industry Members and the Participants.<sup>78</sup> Ultimately, the Operating Committee believes that the 75%–25% allocation will create a more equitable fee split because the Industry Members with the most message traffic and the Participant complexes with the most market share would pay comparable CAT fees.<sup>79</sup> The Operating Committee analyzed data from the fourth quarter of 2020, and determined that the three Industry Members with the most message traffic and the Participant complexes with the highest CAT fees would pay annual CAT fees in a similar range of five to six million dollars.<sup>80</sup>

### 3. Participant CAT Fees

As described above, the Proposed Funding Model provides that the Operating Committee shall establish a minimum fee to be payable by each Participant in addition to a fee based on market share. In the proposed Participant Fee Schedule, the Operating Committee establishes 0.75% of the Participant Allocation as the Minimum Participant Fee<sup>81</sup> regardless of market share.<sup>82</sup> The total Minimum Participant Fees to be paid by each Participant would be subtracted from the Participant Allocation to determine the “Adjusted Participant Allocation.”<sup>83</sup>

The proposed Participant Fee Schedule provides that the Equities Participant Allocation would be 60% of the Adjusted Participant Allocation and the Options Participant Allocation would be 40% of the Adjusted Participant Allocation.<sup>84</sup> The Operating Committee explained that this allocation was determined through negotiations among the Participants.<sup>85</sup>

Each Participant would pay a quarterly Participant CAT fee to recover the costs of the CAT going forward. For Equities Participants, the quarterly Participant CAT Fee would be calculated by multiplying the Equities Participant Allocation by each Equities Participant’s percentage of total market share of NMS Stocks for all Equities Participants for the prior quarter, subject

to the Maximum Equities Participant Fee (if applicable), and in addition to the Minimum Participant Fee.<sup>86</sup> For Options Participants, the quarterly Participant CAT fee would be calculated by multiplying the Options Participant Allocation by each Options Participant’s percentage of total market share in Listed Options for the prior quarter, in addition to the Minimum Participant Fee.<sup>87</sup>

The quarterly Participant CAT fee would be a quarterly CAT fee based on market share from the prior quarter and the allocation of Total CAT Costs under the Proposed Funding Model for the relevant year.<sup>88</sup> The Operating Committee proposes a fee schedule to implement the quarterly Participant CAT fee whereby each Participant would be assessed a CAT fee, on a quarterly basis, that is 25% of 1/4th of the total budgeted annual CAT costs for the relevant year, using CAT Data to calculate market share from the prior quarter of the relevant year.<sup>89</sup>

Under the Proposed Funding Model, FINRA, as a national securities association, would be subject to the Maximum Equities Participant Fee as set by the Operating Committee. The Operating Committee proposes to establish in the Participant Fee Schedule a Maximum Equities Participant Fee equal to the greater of (x) 20% of the Equities Participant Allocation or (y) the highest CAT fee required to be paid by any other Equities Participant plus 5% of such highest CAT fee.<sup>90</sup> Accordingly, as discussed above, FINRA would pay its quarterly Participant CAT fee based on its market share in NMS Stocks, subject to the Maximum Equities Participant Fee.

### 4. Collection of Fees

The Participants’ description of the Proposed Amendment states that the Operating Committee proposes to establish a system for the collection of CAT fees pursuant to Section 11.4 of the CAT NMS Plan. The Company will provide each Participant with an invoice setting forth the quarterly Participant CAT fee for each payment period. Each Participant will pay its CAT fees to the Company via the centralized system for the collection of CAT fees.<sup>91</sup>

## IV. Summary of Comments

The Commission received 19 comment letters on the Proposed Amendment.<sup>92</sup> 15 comment letters

<sup>92</sup> See Letters to Vanessa Countryman, Secretary, Commission from Doug Patterson, Chief Compliance Officer, Cutler Group, LP, dated June 1, 2021, available at <https://www.sec.gov/comments/4-698/4698-8855258-238423.pdf> (“Cutler Letter”); Kelvin To, Founder and President, Data Boiler Technologies, LLC, dated May 3, 2021, available at <https://www.sec.gov/comments/4-698/4698-8749987-237362.pdf> (“Data Boiler Letter”); Joanna Mallers, Secretary, FIA Principal Traders Group, dated May 7, 2021, available at <https://www.sec.gov/comments/4-698/4698-8776522-237685.pdf> (“FIA PTG May 7th Letter”); Joanna Mallers, Secretary, FIA Principal Traders Group, dated May 12, 2021, available at <https://www.sec.gov/comments/4-698/4698-8793902-237843.pdf> (“FIA PTG May 12th Letter”); Matthew Price, Chief Operations Officer, Fidelity Capital Markets, dated May 12, 2021, available at <https://www.sec.gov/comments/4-698/4698-8791746-237802.pdf> (“Fidelity Letter”); Howard Meyerson, Managing Director, Financial Information Forum, dated April 29, 2021, available at <https://www.sec.gov/comments/4-698/4698-8736502-237163.pdf> (“FIF April 29th Letter”); Howard Meyerson, Managing Director, Financial Information Forum, dated May 21, 2021, available at <https://www.sec.gov/comments/4-698/4698-8843662-238307.pdf> (“FIF May 21st Letter”); Marcia E. Asquith, Executive Vice President, Board and External Relations, Financial Industry Regulatory Authority, Inc., dated May 12, 2021, available at <https://www.sec.gov/comments/4-698/4698-8793900-237824.pdf> (“FINRA Letter”); Andrew Stevens, General Counsel, IMC, dated May 20, 2021, available at <https://www.sec.gov/comments/4-698/4698-8819440-238105.pdf> (“IMC Letter”); Michael Lewin, Chief Executive Officer, Istra LLC, dated May 27, 2021, available at <https://www.sec.gov/comments/4-698/4698-8847370-238329.pdf> (“Istra Letter”); Gary Goldsholle, Chief Regulatory Officer and General Counsel, Long-Term Stock Exchange, Inc., dated May 19, 2021, available at <https://www.sec.gov/comments/4-698/4698-8815749-238025.pdf> (“LTSE Letter”); Kirsten Wegner, Chief Executive Officer, Modern Markets Initiative, dated May 6, 2021, available at <https://www.sec.gov/comments/4-698/4698-8771339-237583.pdf> (“MMI Letter”); Michael Blaugrund, Chief Operating Officer, NYSE Inc., dated May 10, 2021, available at <https://www.sec.gov/comments/4-698/4698-8779961-237701.pdf> (“NYSE Letter”); William Bartlett, Chief Executive Officer, Parallax Volatility Advisers, L.P., dated June 28, 2021, available at <https://www.sec.gov/comments/4-698/4698-9006549-246006.pdf> (“Parallax Letter”); Ellen Greene, Managing Director, Equity and Options Market Structure, Securities Industry and Financial Markets Association, dated May 12, 2021, available at <https://www.sec.gov/comments/4-698/4698-8790951-237769.pdf> (“SIFMA Letter”); James Toes, President and Chief Executive Officer, and Andrew D’Amore, Chairman of the Board, Security Traders Association, dated June 11, 2021, available at <https://www.sec.gov/comments/4-698/8905922-244113.pdf> (“STA Letter”); Gunjan Chauhan, Senior Managing Director, Global Head of SPDR Capital Markets, State Street Global Advisors, dated May 12, 2021, available at <https://www.sec.gov/comments/4-698/4698-8793896-237842.pdf> (“SSGA Letter”); Kevin Donohue, General Counsel, Tower Research Capital LLC, dated May 12, 2021, available at <https://www.sec.gov/comments/4-698/4698-8793895-237841.pdf> (“Tower Letter”); and Thomas M. Merritt, Deputy General Counsel, dated May 12, 2021, available at <https://www.sec.gov/comments/4-698/4698-8790127-237768.pdf> (“Virtu Letter”).

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> See Notice, *supra* note 4, at 21060.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.* at 21061. A Participant with both options and equities market share would be treated as both an Options Participant and an Equities Participant.

<sup>85</sup> *Id.*

<sup>86</sup> See Notice, *supra* note 4, at 21061.

<sup>87</sup> *Id.* at 21062.

<sup>88</sup> *Id.* at 21062, 21063.

<sup>89</sup> *Id.* at 21063–21064.

<sup>90</sup> *Id.* at 21061.

<sup>91</sup> *Id.* at 21068.

object to the Proposed Amendment<sup>93</sup> and one comment letter supports the Proposed Amendment.<sup>94</sup> In addition, the Commission received two comment letters requesting data from the Operating Committee,<sup>95</sup> one comment letter requesting data from the Company,<sup>96</sup> and one comment letter from the Operating Committee providing additional details on an illustrative example in Exhibit B to the Proposed Amendment,<sup>97</sup> and two response letters from the Operating Committee.<sup>98</sup>

#### *Scope of Costs To Be Recovered From Industry Members*

Several commenters question the scope of the CAT costs proposed to be recovered from Industry Members.<sup>99</sup> Two commenters state that Industry Members should only be responsible for the direct costs to build and operate the CAT, not the Participants' costs of doing business as SROs, such as insurance and consulting costs.<sup>100</sup> One commenter states that the Exchange Act and Rule 613 do not even require the CAT NMS Plan to impose fees on Industry Members,<sup>101</sup> and that the Participants have failed to justify an "additive CAT fee,"<sup>102</sup> and notes the Participants were

exclusively responsible for developing the CAT and for making decisions about the implementation costs for the CAT.<sup>103</sup> Another commenter asks for justification for why Industry Members should bear the costs of the CAT build when they had no involvement in the process.<sup>104</sup>

In response to comments objecting to the imposition of CAT costs on Industry Members,<sup>105</sup> the Operating Committee states that Industry Members should be required to pay CAT costs in accordance with Rule 613 and the CAT NMS Plan.<sup>106</sup> The Operating Committee adds that, because all market participants would benefit from the enhanced regulatory oversight provided by the CAT, Industry Members and Participants should both contribute to covering its costs.<sup>107</sup>

Six commenters object to the proposed imposition of historical costs on Industry Members.<sup>108</sup> Several commenters note that Industry Members had no input into or control over the decisions resulting in the historical costs, including the selection of Thesys Technologies, LLC as the initial plan processor,<sup>109</sup> and the subsequent transition to FINRA as the plan processor.<sup>110</sup> One commenter states, "the Participants must meet a high bar for the Commission to alter course and support any proposed rule changes that require non-Participants to pay the Thesys costs."<sup>111</sup> One commenter questions the rationale for requiring Industry Members to pay 75% of the cost of the transition to FINRA, explaining that FINRA is completely funded by the industry.<sup>112</sup> Two commenters object to requiring Industry Members to pay the legal and consulting fees incurred by Participants prior to the

approval of the CAT NMS Plan.<sup>113</sup> Two commenters criticize the Proposed Amendment for requiring new Industry Members to pay CAT fees to recover historical costs, while exempting new Participants from such a requirement.<sup>114</sup>

In response to comments questioning the scope of the costs to be recovered from Industry Members,<sup>115</sup> the Operating Committee states that the recovery from Industry Members of the historical costs, Thesys-related costs and third-party expenses (including legal, consulting and audit expenses) is consistent with the CAT NMS Plan and the Exchange Act.<sup>116</sup> The Operating Committee states that, when approving the CAT NMS Plan, the Commission noted that the Exchange Act permits the Participants to charge their members fees to fund their self-regulatory obligations and that the Plan funding model was designed to impose fees reasonably related to the Participants' self-regulatory obligations since the fees would be directly associated with the costs to build and maintain the CAT.<sup>117</sup> Additionally, the Operating Committee states that the Commission considered that the Participants could recover the costs of creating and funding the CAT central repository in the adopting release for Rule 613.<sup>118</sup> The Operating Committee explains that these costs are critical to the creation, implementation and maintenance of the Plan and therefore should be within the scope of CAT fees.<sup>119</sup>

#### *Lack of Industry Member Input*

Several commenters express concern that the proposal was developed without the involvement of Industry Members.<sup>120</sup> One commenter states that it is "incredulous of the process used to construct a proposed allocation model in which Industry Members are allocated 75% of the expenses yet had no meaningful input into the model's development."<sup>121</sup> Another commenter opines that Industry Members are being required to shoulder most of the costs of the CAT without having had any insight

<sup>93</sup> See Data Boiler Letter; Fidelity Letter; FIA PTG May 12th Letter; FINRA Letter; IMC Letter; Istra Letter; LTSE Letter; MMI Letter; NYSE Letter; SIFMA Letter; SSGA Letter; STA Letter; Tower Letter; and Virtu Letter.

<sup>94</sup> See Cutler Letter (stating "[h]aving reviewed the Proposal, and having compared it to the previous CAT funding model, we see the Amendment as a vast improvement that is more fair and equitable to both Market Participants and Industry Members. We would urge that the Commission approve this amendment."). *Id.* at 1.

<sup>95</sup> See FIF April 29th Letter; FIF May 21st Letter.

<sup>96</sup> See FIA PTG May 7th Letter.

<sup>97</sup> See Letter to Vanessa Countryman, Secretary, Commission from Michael Simon, CAT NMS Plan Operating Committee Chair, dated May 5, 2021, available at <https://www.sec.gov/comments/4-698/4698-8760381-237447.pdf> ("CAT Operating Committee May 5th Letter").

<sup>98</sup> See Letters to Vanessa Countryman, Secretary, Commission from Michael Simon, CAT NMS Plan Operating Committee Chair, dated July 14, 2021, available at <https://www.sec.gov/comments/4-698/4698-9061305-246406.pdf> ("CAT Operating Committee July 14th Letter I"); from Michael Simon, CAT NMS Plan Operating Committee Chair, dated July 14, 2021, available at <https://www.sec.gov/comments/4-698/4698-9061306-246406.pdf> ("CAT Operating Committee July 14th Letter II"). CAT Operating Committee July 14th Letter II states, "these responses represent the consensus of the Participants, but that all Participants may not fully agree with each response set forth in this letter." CAT Operating Committee July 14th Letter II at 1–2.

<sup>99</sup> See SIFMA Letter at 4; Virtu Letter at 5–6; FIA PTG May 12th Letter at 5; Data Boiler Letter at 8; Tower Letter at 3.

<sup>100</sup> See SIFMA Letter at 4; FIA PTG May 12th Letter at 5.

<sup>101</sup> See Virtu Letter at 2.

<sup>102</sup> *Id.* at 3.

<sup>103</sup> *Id.* at 2.

<sup>104</sup> See MMI Letter at 3. Similarly, this commenter also requests the rationale for why "a small number of brokers should pay the vast majority of the now-inflated cost without having any insight or authority into the methodology and rationale for the cost?" *Id.* at 2. The Operating Committee responds that its proposed Maximum Industry Member CAT Fee would institute a cap on fees to fairly allocate costs to Industry Members to avoid certain Industry Members paying a significant allocation of Total CAT Costs. See CAT Operating Committee July 14th Letter II at 6–7.

<sup>105</sup> See Virtu Letter at 2–3; MMI Letter at 3.

<sup>106</sup> See CAT Operating Committee July 14th Letter II at 4–5.

<sup>107</sup> *Id.* at 5–6.

<sup>108</sup> See SIFMA Letter at 6; Virtu Letter at 5–6; Data Boiler Letter at 8; Istra Letter at 2–3; Tower Letter at 3; Fidelity Letter at 3, 5; MMI Letter at 3; Parallax Letter at 1.

<sup>109</sup> See SIFMA Letter at 6; Virtu Letter at 5–6; Fidelity Letter at 3, 5; Tower Letter at 3; MMI Letter at 3.

<sup>110</sup> See Virtu Letter at 6.

<sup>111</sup> See Parallax Letter at 1.

<sup>112</sup> See Virtu Letter at 6.

<sup>113</sup> See Tower Letter at 3; SIFMA Letter at 6.

<sup>114</sup> See Virtu Letter at 6; SIFMA Letter at 6–7.

<sup>115</sup> See Data Boiler Letter at 8; FIA PTG May 12th Letter at 2; Fidelity Letter at 3, 5; Istra Letter at 2–3; MMI Letter at 3; SIFMA Letter at 6; Tower Letter at 3; Virtu Letter at 5–6.

<sup>116</sup> See CAT Operating Committee July 14th Letter I at 5.

<sup>117</sup> *Id.* at 5.

<sup>118</sup> *Id.* at 5–6.

<sup>119</sup> *Id.* at 6.

<sup>120</sup> See SIFMA Letter at 2; STA Letter at 2–3; Data Boiler Letter at 8; FIA PTG May 12th Letter at 2–3; IMC Letter at 2–3; Fidelity Letter at 2–3, 4; Tower Letter at 7; MMI Letter at 2, 3, 4.

<sup>121</sup> See FIA PTG May 12th Letter at 3.

into the costs.<sup>122</sup> Two commenters note the lack of representation of Industry Members on the Operating Committee.<sup>123</sup> One commenter believes that the technical expertise of the industry should be involved in the development of a new cost allocation proposal that contains “a full explanation of the proposed operating costs and . . . an appropriately detailed public disclosure of the operating budget.”<sup>124</sup> Another commenter suggests that the Commission ask the Participants to engage with the industry “to establish a workable allocation methodology that is simple, predictable and aligns responsibility for funding regulatory infrastructure with receiving economic benefits of the marketplace.”<sup>125</sup>

In response to comments noting a lack of industry participation in the development of the Proposed Funding Model,<sup>126</sup> the Operating Committee explains that the CAT Advisory Committee and the public notice and comment processes afforded by Rule 608 of Regulation NMS<sup>127</sup> and Section 19 of the Exchange Act<sup>128</sup> have provided Industry Members and other market participants the opportunity to express their views on the funding model.<sup>129</sup> With respect to the comments expressing concern over a lack of Industry Member representation on the Operating Committee, the Operating Committee states that Industry Members can provide meaningful input on CAT matters through the current governance structure without compromising Commission and SRO oversight of Industry Members.<sup>130</sup>

#### *Participant Conflicts of Interest*

Six commenters believe that the Participants have conflicts of interest that are reflected in the cost allocation proposed for the Participants and Industry Members.<sup>131</sup> Two commenters

believe that the Participants are attempting to further their commercial interests through the proposal at the expense of their Industry Member competitors.<sup>132</sup> One commenter believes that the Participants are conflicted when determining how much of their own costs they should pay and suggests greater transparency to expose any Participant conflicts.<sup>133</sup> Another commenter states, “[t]o permit for-profit exchanges to allocate 75% of the costs of the CAT to Industry Members furthers the Participants’ commercial interests at the expense of the Industry Members, who have no choice but to pay such fees or else be subject to regulatory actions by the Participants.”<sup>134</sup> This commenter suggests that the Commission require the Participants to resubmit a proposal with a transparent analysis and requests that Industry Members be permitted adequate representation on the Operating Committee.<sup>135</sup>

In response to the comments regarding potential conflicts of interests behind the proposed cost allocation for Participants and Industry Members,<sup>136</sup> the Operating Committee states that it disagrees with the comments and notes that the CAT NMS Plan contains measures to protect against potential conflicts of interest related to CAT fees, “including the fee filing requirements under the Exchange Act and operating the CAT on a break-even basis.”<sup>137</sup>

#### *Lack of Transparency*

Several commenters express concern that the Proposed Funding Model lacks sufficient transparency into the operating budget as well as the costs proposed to be recovered by the CAT fees.<sup>138</sup> One commenter believes the lack of cost data would make it impossible for the Commission and Industry Members to determine whether the CAT is operating efficiently.<sup>139</sup> The commenter adds that detailed cost information would be useful for

Industry Members to evaluate whether certain of their activities are causing the CAT to incur higher operating costs, and consequently causing increases in their own CAT fees.<sup>140</sup> This commenter added that it is impossible to evaluate whether the Proposed Funding Model is consistent with the Exchange Act due to lack of information; in particular, details concerning sources of the costs and the operating budget.<sup>141</sup> Similarly, another commenter suggests the provision of non-proprietary cost information to allow meaningful input from Industry Members.<sup>142</sup> Another commenter believes that it “feels like we are being asked to hand over [a] blank check with the amount to be filled in later.”<sup>143</sup> One commenter states, “the Amendment is virtually silent on the use of funds and offers no budget for the CAT’s ongoing operation.”<sup>144</sup>

Commenters request detailed information on the historical costs and the operating budget.<sup>145</sup> One commenter recommends that the Proposed Amendment disclose its costs and technical requirements, and detail the historical costs and projected annual budget for the Plan operating expenses, professional services expenses, and plan processor expenses.<sup>146</sup> The commenter recommends that the Participants make the annual budget public in the future.<sup>147</sup> Another commenter states that the Proposed Amendment lacks an explanation for the 2021 estimated cost of \$133 million, including the scale of CAT processing, number of reported transactions, data storage sizes and processing performed.<sup>148</sup> The commenter states that an operating budget is necessary to determine how much of CAT costs is variable based on message traffic.<sup>149</sup> The commenter recommends that the Operating Committee propose a new cost allocation plan that includes a full accounting of the historical costs and justification for charging these costs to Industry Members.<sup>150</sup> The commenter also recommends that the new proposal explain its proposed operating costs and

<sup>122</sup> See MMI Letter at 2, 3.

<sup>123</sup> See Tower Letter at 7; Data Boiler Letter at 6. See also Parallax Letter at 2 (suggesting the admission of Industry Members and independent parties as members of the Operating Committee, along with full internal disclosure of costs, would benefit the operation of the CAT NMS Plan).

<sup>124</sup> See Tower Letter at 7.

<sup>125</sup> See NYSE Letter at 5. See also SIFMA Letter at 2 (agreeing with this statement).

<sup>126</sup> See FIA PTG May 12th Letter at 2–3; Fidelity Letter at 2–4; IMC Letter at 2; SIFMA Letter at 2; STA Letter at 2–3; Tower Letter at 7.

<sup>127</sup> 17 CFR 242.608.

<sup>128</sup> 15 U.S.C. 78s.

<sup>129</sup> See CAT Operating Committee July 14th Letter I at 7–8.

<sup>130</sup> *Id.* at 8.

<sup>131</sup> See SIFMA Letter at 2; Virtu Letter at 2, 6; FIA PTG May 12th Letter at 2, 3, 4; Tower Letter at 1, 5, 7; Istra Letter at 2; MMI Letter at 4. See also Parallax Letter at 3–4 (stating that the proposed

market maker discounts benefit the Participants who have set the standards for market-making activity, including activity resulting in message traffic with low order to trade ratios).

<sup>132</sup> See SIFMA Letter at 2; Virtu Letter at 2.

<sup>133</sup> See FIA PTG May 12th Letter at 3.

<sup>134</sup> See Tower Letter at 5.

<sup>135</sup> See Tower Letter at 5.

<sup>136</sup> See Data Boiler Letter at 6, 7; FIA PTG May 12th letter at 2, 3; MMI Letter at 4; Parallax Letter at 3–4; Tower Letter at 1, 5, 7.

<sup>137</sup> See CAT Operating Committee July 14th Letter I at 8.

<sup>138</sup> See SIFMA Letter at 4–5; Virtu Letter at 4–5; SSGA Letter at 1–2; Fidelity Letter at 2, 4–5; NYSE Letter at 2; STA Letter at 1, 3–4; Tower Letter at 2, 5, 7; MMI Letter at 2, 3–4; FIA PTG May 12th Letter at 2, 5; IMC Letter at 1, 2; Istra Letter at 1, 2; Parallax Letter at 1–2, 5.

<sup>139</sup> See SIFMA Letter at 5.

<sup>140</sup> *Id.* at 5.

<sup>141</sup> *Id.* at 4.

<sup>142</sup> See STA Letter at 3.

<sup>143</sup> See Virtu Letter at 4.

<sup>144</sup> See NYSE Letter at 2.

<sup>145</sup> *Id.* at 2; Tower Letter at 2, 7; Istra Letter at 2; Fidelity Letter at 5; MMI Letter at 2–3, 4; FIA PTG May 12th Letter at 5; Parallax Letter at 1–2, 5.

<sup>146</sup> See NYSE Letter at 2.

<sup>147</sup> *Id.* at 2.

<sup>148</sup> See Tower Letter at 2.

<sup>149</sup> *Id.* at 2.

<sup>150</sup> *Id.* at 7.

publicly disclose its operating budget.<sup>151</sup>

Another commenter notes that the Proposed Amendment lacks detail on the historical CAT assessment costs and requests the Participants to provide the opportunity to review the costs incurred before the CAT NMS Plan was approved, noting that Industry Members should be permitted “to refute the validity of any cost and its allocation to Industry Members.”<sup>152</sup> Another commenter states that the Proposed Amendment provides no transparency into historical and annual costs.<sup>153</sup> One commenter requests the Commission to require the Participants to provide a cost-sharing structure with greater transparency, including a full accounting of historical costs and a detailed public explanation of the proposed operating costs.<sup>154</sup> The commenter urges greater transparency in the operating budget, the cost allocation model, and on variable costs, such as messaging costs, and fixed costs, such as payroll costs.<sup>155</sup>

Commenters also request a breakdown of the estimated CAT costs and operating budget.<sup>156</sup> Two commenters request a copy of the 2021 operating budget with quarterly updates including actual and revised projections.<sup>157</sup> One of the commenters also requests data to permit each Industry Member to calculate its fees, including the data used by the Operating Committee to calculate the estimates in Exhibit B to the Proposed Amendment.<sup>158</sup> In a response, the Operating Committee provides the following data: (1) The budgeted Total CAT Costs for 2021; (2) total Industry Member message traffic counts, including the total message counts for Options Market Makers and Equity Market Makers, used in the proposal’s Exhibit B; (3) unrounded trade-to-quote ratios for Listed Options and NMS Stocks; and (4) the method used to calculate an Industry Member’s quarterly CAT fees.<sup>159</sup> The Operating

Committee states that Industry Members can contact FINRA CAT to learn which of the anonymized Industry Member information in Exhibit B represents its traffic, as well as its total message traffic count and percentage or number of its reported events that were treated as events of Options Market Makers or Equity Market Makers.<sup>160</sup> The Operating Committee also agrees to provide information to permit an Industry Member to calculate its actual CAT fees on an ongoing basis.<sup>161</sup> Subsequently, the first commenter requests further information to understand the impact of the funding proposal and help each Industry Member reconcile the data it received from the Operating Committee and its internal records.<sup>162</sup> The second commenter finds the response from the Operating Committee insufficient and requests a copy of the 2021 operating budget and any quarterly updates and projected costs, a breakdown of fixed and variable expenses, and provision to Industry Members of data used to support the selected funding model and the funding models that were rejected.<sup>163</sup>

Several commenters believe the lack of transparency prevents Industry Members from estimating their costs and fees.<sup>164</sup> One commenter believes that the Proposed Amendment lacks information needed by Industry Members to calculate their fees as well as to analyze the fairness and accuracy of the funding model.<sup>165</sup> The commenter notes that 75 of 1,237 Industry Members would be allocated 99% of Industry Member fees, and that the Proposed Amendment claims that this is fair without factual support.<sup>166</sup> One commenter acknowledges the data subsequently provided in the response from the Operating Committee<sup>167</sup> and suggests that the Participants regularly provide updated message traffic data to Industry Members to allow them to estimate their CAT fees.<sup>168</sup> Another commenter opines that the supplementary message traffic data and the 2021 budget information provided by the Operating Committee is insufficient to allow Industry Members

to project their CAT fees.<sup>169</sup> One commenter suggests that cost recovery should have “transparent inputs” that would permit Industry Members to predict their costs and understand the costs of their actions.<sup>170</sup>

In response to comments requesting additional transparency into CAT costs,<sup>171</sup> the Operating Committee states that it has made publicly available substantial annual cost data by providing, upon request, its audited financial statements from the inception of Consolidated Audit Trail LLC and CAT NMS, LLC through 2020, as required by Section 9.2(a) of the CAT NMS Plan.<sup>172</sup> The Operating Committee explains that the audited financial statements contain the following cost categories: “technology costs, legal, amortization of developed technology, consulting, insurance, professional and administration, and public relations.”<sup>173</sup> The Operating Committee also states that the Proposed Funding Model would provide additional cost transparency through the provision of the operating budget at the start of each year, as well as the budgeted Total CAT Costs to be used in calculating the quarterly CAT fees, and any quarterly budget adjustments.<sup>174</sup> The Operating Committee adds that it proposes to provide additional cost information to the industry through webinars, among other methods,<sup>175</sup> and notes the cost-related information it provided in its May 5th letter.<sup>176</sup>

Several commenters believe the Proposed Amendment does not properly explain increases in historical and annual costs in excess of prior estimates.<sup>177</sup> One commenter states, “[t]here may well be appropriate—or at least understandable—reasoning for historical and ongoing costs to greatly exceed expectations, and that is for the Participants to explain and the Commission to review as part of its oversight of the SROs.”<sup>178</sup> Two commenters ask if any corresponding benefits accompany the increased cost

<sup>151</sup> *Id.* at 7.

<sup>152</sup> See Fidelity Letter at 5.

<sup>153</sup> See FIA PTG May 12th Letter at 5.

<sup>154</sup> See MMI Letter at 2–3.

<sup>155</sup> *Id.* at 4.

<sup>156</sup> See SSGA Letter at 2; Fidelity Letter at 5; FIF April 29th Letter at 1, 2; FIA PTG May 7th Letter at 2.

<sup>157</sup> See FIF April 29th Letter at 1; FIA PTG May 7th Letter at 2; FIA PTG May 12th Letter at 2.

<sup>158</sup> See FIF April 29th Letter at 2. This commenter also requests that the Operating Committee publicly provide the options and equity trade-to-quote ratios used in the Proposed Amendment’s Exhibit B and the aggregate number of reportable events of each type that are counted toward the total number of reportable events. *Id.*

<sup>159</sup> See CAT Operating Committee May 5th Letter. This response was also noted by the Operating

Committee in a response to comments. See CAT Operating Committee July 14th Letter II at 16.

<sup>160</sup> See CAT Operating Committee May 5th Letter at 2.

<sup>161</sup> *Id.* at 2, n.8.

<sup>162</sup> See FIF May 21st Letter at 2–3.

<sup>163</sup> See FIA PTG May 12th Letter at 2.

<sup>164</sup> See Tower Letter at 3; SIFMA Letter at 5, 9; Virtu Letter at 4.

<sup>165</sup> See Tower Letter at 3.

<sup>166</sup> *Id.*

<sup>167</sup> See CAT Operating Committee May 5th Letter.

<sup>168</sup> See SIFMA Letter at 5.

<sup>169</sup> See Virtu Letter at 4.

<sup>170</sup> See Istra Letter at 2–3.

<sup>171</sup> See FIA PTG May 12th Letter at 2, 5; Fidelity Letter at 3, 5; Istra Letter at 2; MMI Letter at 3, 4; NYSE Letter at 2; Parallax Letter at 1–2; SIFMA Letter at 4; STA Letter at 3; SSGA Letter at 1–2; Tower Letter at 2, 4, 7; Virtu Letter at 4.

<sup>172</sup> See CAT Operating Committee July 14th Letter I at 4.

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> *Id.* at 3–4. See also CAT Operating Committee May 5th Letter.

<sup>177</sup> See FIA PTG May 12th Letter at 4–5; SSGA Letter at 1–2; Istra Letter at 2; MMI Letter at 1–2, 3–4; Tower Letter at 1, 2–4; Parallax Letter at 2.

<sup>178</sup> See Parallax Letter at 2.

estimates.<sup>179</sup> One commenter expresses concern that the Participants have no accountability for the costs of the project.<sup>180</sup> Another commenter requests assurances that the CAT will not become an “ever-growing expense” for the industry and investors.<sup>181</sup> Another commenter, a proprietary trading firm, states that it “captures real time market data feeds from over 100 venues around the world, in a variety of different products . . . The processing of this historical market data might reasonably be compared to the kind of processing that the CAT is expected to do . . . While we do not claim that this is a perfect comparison, we do posit that the cost to build and maintain the CAT should be reasonably comparable.”<sup>182</sup> The commenter states that its annual cost for this platform is ten times less than the cost provided in the Proposed Amendment.<sup>183</sup>

In response to comments questioning the increases in CAT costs from prior estimates,<sup>184</sup> the Operating Committee explains that data processing and storage costs are the primary CAT cost drivers and that these costs have increased significantly each year.<sup>185</sup> First, the Operating Committee states that these costs are directly related to data volumes reported to the CAT and that the markets have experienced record high volumes, noting that in 2019 and 2021, data volumes were five times greater than estimated.<sup>186</sup> To address the increased volume, the CAT’s storage and computing needs have accordingly increased.<sup>187</sup> Second, the Operating Committee explains that the phased introduction of CAT reporting and functionality results in “a substantial increase in message traffic, processing complexity and storage requirements.”<sup>188</sup> Third, the Operating Committee states that the processing and storage of the many complex reporting scenarios relating to Industry Member market activity require complicated algorithms that result in “significant data processing and storage costs.”<sup>189</sup> Finally, the Operating Committee notes that the combination of record CAT Data volumes with the

stringent performance timelines and operational requirements applicable to the processing of CAT Data do not allow much flexibility for cost reductions.<sup>190</sup>

Some commenters believe that the Proposed Funding Model lacks the transparency needed to incentivize the Participants to manage CAT costs efficiently.<sup>191</sup> One commenter states the lack of transparency precludes the Operating Committee’s accountability and suggests a full audit of the CAT’s historical costs, ongoing budget and a comparison to its estimated benefits.<sup>192</sup> Another commenter believes that allowing Industry Members greater visibility into CAT’s expenses would increase the Participants’ accountability to manage costs.<sup>193</sup>

In response to comments urging more transparency to ensure the Participants manage CAT Costs efficiently,<sup>194</sup> the Operating Committee states that it “has a strong focus on cost management and is significantly incented to keep costs at an appropriate level.”<sup>195</sup> The Operating Committee notes that it actively pursues cost saving measures and has a Cost Management Working Group to address cost management needs.<sup>196</sup> Additionally, the Operating Committee states that the plan processor regularly reviews options to lower compute and storage needs and works with CAT technology providers to provide services in a cost-effective manner.<sup>197</sup>

Finally, one commenter states that the Proposed Amendment needs to explain what would happen if actual CAT operating costs exceed the budget and what would happen if the CAT becomes over-budget. The commenter believes that a revised amendment should provide further details on the CAT budget and potential budget surpluses.<sup>198</sup> In response to the comment,<sup>199</sup> the Operating Committee explains that it would address budget shortfalls or excess fees through updates to the budgets and operational reserves.<sup>200</sup> The Operating Committee states that to recover the costs of CAT on an ongoing basis, it will use the costs in the annual operating budget as the Total CAT Costs to be used to calculate

CAT fees, and that these budgeted costs may be adjusted on a quarterly basis to address any changes to the budget.<sup>201</sup> The Operating Committee states that if CAT fees exceed the CAT costs, despite quarterly budget adjustments, any surplus would be treated as an operational reserve to offset fees in future payments, in accordance with Section 11.1(c) of the CAT NMS Plan.<sup>202</sup> If CAT fees are less than CAT costs, the Operating Committee states that it “may address the shortfall by using the operational reserve, including the amount of the shortfall in future fees and/or seeking to recover the costs via other measures in accordance with the Exchange Act.”<sup>203</sup>

#### *Allocation of Costs Between Industry Members and Participants*

Many commenters raise concerns about the proposed allocation of costs between Industry Members and Participants.<sup>204</sup> Several commenters argue that the allocation lacks justification for the decision to recover 75% of Total CAT Costs from Industry Members and 25% from Participants.<sup>205</sup> Two commenters believe the allocation to Industry Members is “arbitrary and unsupported” under the Exchange Act.<sup>206</sup> One commenter challenges the Participants’ justification for the allocation—that there are more Industry Members than Participants and Industry Members receive much more revenue than Participants—as not providing a rational basis on which to claim that the Proposed Amendment provides for a fair allocation of reasonable fees and does not impose an undue burden on competition.<sup>207</sup> Another commenter states, “[i]t is unclear from the proposal why the ability to pay is a corollary to CAT costs and an appropriate factor in justifying the split.”<sup>208</sup> One commenter states that costs are not deemed reasonable because a party can afford the costs, because the costs are not large enough to be material, or because the costs can be shared among thousands of

<sup>179</sup> See MMI Letter at 2; SSGA Letter at 2.

<sup>180</sup> See FIA PTG May 12th Letter at 5.

<sup>181</sup> See SSGA Letter at 2.

<sup>182</sup> See Tower Letter at 4.

<sup>183</sup> *Id.*

<sup>184</sup> See FIA PTG May 12th Letter at 4–5; Istra Letter at 2; MMI Letter at 1–2, 4; Parallax Letter at 1–2; SSGA Letter at 1–2; Tower Letter at 1–4.

<sup>185</sup> See CAT Operating Committee July 14th Letter I at 2.

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> *Id.* at 3.

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

<sup>191</sup> See SIFMA Letter at 5; Fidelity Letter at 3, 5; Tower Letter at 2; FIA PTG May 12th Letter at 5.

<sup>192</sup> See Istra Letter at 1.

<sup>193</sup> See Fidelity Letter at 5.

<sup>194</sup> See FIA PTG May 12th Letter at 5; Fidelity Letter at 3; Tower Letter at 2, 7.

<sup>195</sup> See CAT Operating Committee July 14th Letter I at 4–5.

<sup>196</sup> *Id.* at 5.

<sup>197</sup> *Id.*

<sup>198</sup> See Fidelity Letter at 3, 5.

<sup>199</sup> *Id.* at 5.

<sup>200</sup> See CAT Operating Committee July 14th Letter I at 6.

<sup>201</sup> *Id.* at 6–7.

<sup>202</sup> *Id.* at 7.

<sup>203</sup> *Id.*

<sup>204</sup> See Fidelity Letter at 2–4; NYSE Letter at 1–2; Tower Letter at 4–5; MMI Letter at 4–5; Istra Letter at 3; SIFMA Letter at 5–8; Virtu Letter at 3–6; Data Boiler Letter at 7; FIA PTG May 12th Letter at 3, 4; FINRA Letter at 3, 4–5; Parallax Letter at 2–3.

<sup>205</sup> See Fidelity Letter at 3–4; NYSE Letter at 1–2; Tower Letter at 4–5; MMI Letter at 4–5; Istra Letter at 3; Virtu Letter at 3–4; SIFMA Letter at 5–6.

<sup>206</sup> See SIFMA Letter at 5–6; Virtu Letter at 3.

<sup>207</sup> See SIFMA Letter at 5–6.

<sup>208</sup> See Fidelity Letter at 4.

Industry Members.<sup>209</sup> Another commenter believes that the cost allocation should have focused on what market participants should pay based on costs and benefits, rather than ability to pay based on aggregate revenues.<sup>210</sup>

One commenter believes the cost allocation is inequitable and an undue burden on Industry Members.<sup>211</sup> The commenter believes that CAT fees should only be imposed on beneficiaries of CAT services,<sup>212</sup> allocated in proportion to benefit received.<sup>213</sup> The commenter believes that market participants that pose higher risks and potential conflicts of interest should pay higher fees than other market participants.<sup>214</sup>

One commenter approves the proposed elimination of tiering, but expresses concern at the allocation, stating that allocating set percentages of total costs to one group over another is the wrong approach.<sup>215</sup> The commenter criticizes the Proposed Amendment for basing the allocation on ensuring that the highest paying Industry Members pay the same as the highest paying Participants.<sup>216</sup> Additionally, this commenter believes that Participants would have no incentive to manage costs if they are only responsible for 25% of Total CAT Costs.<sup>217</sup> For the same reason, another commenter believes there is little incentive for Participants to justify their historical costs or manage a reasonable and efficient operating budget.<sup>218</sup> The commenter believes the cost allocation methodology differences between the Industry Members and the Participants warrants further discussion and transparency.<sup>219</sup>

One commenter notes that the Proposed Funding Model does not explain how the 75% allocation to Industry Members relates to overall CAT costs resulting from Industry Member reporting and therefore may not be supported by Section 11.2(a) and Section 11.2(b) of the CAT NMS Plan.<sup>220</sup>

Another commenter suggests a 50%–50% cost allocation between Industry Members and Participants and argues that any allocation should be transparent and predictable and supported by evidence.<sup>221</sup> The commenter suggests that Industry Member costs be allocated based on the value any Industry Member receives from the market.<sup>222</sup> One commenter believes the proposal lacks information for commenters to understand how CAT costs are allocated across asset classes.<sup>223</sup> The commenter suggests the creation of a predictable cost allocation methodology reached through engagement with Industry Members that aligns costs with the receipt of benefits from the market.<sup>224</sup>

One commenter believes the proposed allocation is arbitrary because the Participants override the allocation with adjusted allocations, such as the proposed market maker discounts, the Minimum Industry Member CAT Fee and the Maximum Industry Member CAT Fee, and the treatment of OTC Equity Security share volume.<sup>225</sup> The commenter believes the Proposed Funding Model would shift the regulatory cost of overseeing one Industry Member to another Industry Member, with the potential effect of retail investors who transact with small Industry Members indirectly subsidizing sophisticated investors who transact with large market-makers.<sup>226</sup> The commenter states, “the Operating Committee has not provided a sufficient regulatory case for a proposed funding model which imposes different costs for the same CAT reportable events.”<sup>227</sup>

Several commenters believe the proposed cost allocation between Industry Members and Participants ignores the time investment and costs already incurred by Industry Members to report to the CAT.<sup>228</sup> One commenter

the Company that are aligned with the anticipated costs to build, operate and administer the CAT and the other costs of the Company. Section 11.2(b) requires the Operating Committee to establish an allocation of the Company’s related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon Company resources and operations.

<sup>221</sup> See Istra Letter at 5–6.

<sup>222</sup> *Id.*

<sup>223</sup> See NYSE Letter at 4.

<sup>224</sup> *Id.* at 5.

<sup>225</sup> See Parallax Letter at 3.

<sup>226</sup> *Id.*

<sup>227</sup> *Id.*

<sup>228</sup> See SIFMA Letter at 7–8; FIA PTG May 12th Letter at 5; Tower Letter at 4–5. See also Fidelity Letter at 2 (stating that Industry Members have spent much time and money on building systems

notes that Industry Members have had to develop internal systems for CAT reporting and that Industry Members have provided critical assistance to the Participants in developing Industry Member CAT Technical Specifications.<sup>229</sup> The commenter opines that an analysis of the costs incurred by Industry Members for internal compliance would demonstrate that the Industry Allocation is not an equitable allocation of reasonable fees.<sup>230</sup> Another commenter notes that the Proposed Amendment does not mention the substantial time and cost invested by Industry Members into refining reporting specifications and building CAT reporting platforms,<sup>231</sup> and one other commenter believes that the Proposed Amendment ignores the substantial costs that Industry Members have incurred associated with the development, testing and implementation of the CAT.<sup>232</sup>

One commenter states that the Proposed Funding Model treats affiliated Participants differently than affiliated Industry Members without explaining how this inconsistency is consistent with the Exchange Act.<sup>233</sup> The commenter explains that affiliated Participants would be charged based on aggregate market share as a single complex, while affiliated Industry Members would be charged individually based on individual message traffic. The commenter states, “[t]his methodology seems to be rooted in the Participants’ view that it provides for a fair allocation of fees under the proposal because it results in the largest Participant complexes being charged approximately the same level of fees as the largest Industry Members.” The commenter notes that the result is not a fair allocation of reasonable fees as the largest Industry Members have multiple affiliates that, if viewed as a single aggregated complex like affiliated Participants, would pay greater CAT fees than the largest Participant complexes.<sup>234</sup>

One commenter questions why equities and options message traffic is combined for Industry Member cost allocation purposes, unlike the Participant Allocation where 60% of the Total CAT Costs would be allocated to

to comply with CAT requirements but will not be reimbursed for these costs).

<sup>229</sup> See SIFMA Letter at 7–8. See also STA Letter at 3 (describing collaborative efforts by Industry Members and Participants to develop technical specifications).

<sup>230</sup> See SIFMA Letter at 7–8.

<sup>231</sup> See Tower Letter at 4–5.

<sup>232</sup> See FIA PTG May 12th Letter at 5.

<sup>233</sup> See SIFMA Letter at 8.

<sup>234</sup> *Id.*

<sup>209</sup> See Parallax Letter at 2.

<sup>210</sup> See Virtu Letter at 3–4.

<sup>211</sup> See Data Boiler Letter at 6, 7.

<sup>212</sup> *Id.* at 6.

<sup>213</sup> *Id.* at 7.

<sup>214</sup> *Id.* at 8.

<sup>215</sup> See FIA PTG May 12th Letter at 4. The Operating Committee acknowledges the commenter’s support of the elimination of tiering. See CAT Operating Committee July 14th Letter II at 8, 13.

<sup>216</sup> See FIA PTG May 12th Letter at 4.

<sup>217</sup> *Id.*

<sup>218</sup> See MMI Letter at 4–5.

<sup>219</sup> *Id.* at 5.

<sup>220</sup> See FINRA Letter at 5. Section 11.2(a) of the CAT NMS Plan requires the Operating Committee, in establishing the funding of the Company, to create transparent, predictable revenue streams for

Equities Participants and 40% would be allocated to Options Participants.<sup>235</sup> The commenter states, “[i]f message traffic is indeed the major driver of CAT costs, then it stands to reason that at least 40% of the Industry Member costs be allocated to options (as in the Participants’ allocation framework), if not significantly more.”<sup>236</sup>

Four commenters note that, under the proposed allocation, Industry Members must not only cover their allocation of the Total CAT Costs, but they must also fund FINRA, which would owe its own share of Participant CAT fees.<sup>237</sup> One commenter believes that, including FINRA’s allocation, the Industry Member Allocation would exceed 80%.<sup>238</sup> The commenter notes that the Proposed Amendment does not explain why FINRA should be treated the same way as exchanges for allocation purposes when Industry Members pay FINRA’s operation costs through regulatory fees and fines.<sup>239</sup> Another commenter believes that FINRA will raise its fees to help pay for its own Participant Allocation, further increasing the cost to be borne by Industry Members.<sup>240</sup> This commenter suggests that the Participants should submit a new proposal with a cost methodology supported by data that Industry Members can evaluate.<sup>241</sup> FINRA itself comments, “[o]ne effect of adopting these unsupported allocation criteria would be an unjustified increase in FINRA’s fee assessments . . .”<sup>242</sup> FINRA also states that because it relies on regulatory fees from members, the Proposed Funding Model would reallocate FINRA’s costs to Industry Members in addition to the CAT fees to be borne by Industry Members.<sup>243</sup>

In response to comments questioning the justification for the proposed 75%–25% allocation,<sup>244</sup> the Operating Committee states that this allocation “continues to be an equitable allocation of reasonable CAT fees between Industry Members and Participants that balances the costs paid by each CAT Reporter and the regulatory benefits

each receives.”<sup>245</sup> The Operating Committee reiterates the arguments it made in support of the allocation from the Proposed Amendment.<sup>246</sup>

Several commenters state that the Proposed Amendment does not consider whether regulatory fees and fines paid by Industry Members could offset the costs of CAT.<sup>247</sup> One commenter asserts that the Proposed Funding Model did not consider using exchange regulatory revenues or profits as sources of funding and did not explain why fines paid by Industry Members for CAT reporting violations could not offset the costs of operating the CAT.<sup>248</sup> In addition, the commenter states that the Proposed Funding Model did not analyze whether FINRA’s Trading Activity Fee (“TAF”) could offset the costs of CAT when OATS is retired, or whether FINRA could reduce the TAF rate.<sup>249</sup> The commenter said that inclusion of this analysis would reveal that the Industry Allocation is not an equitable allocation of reasonable fees.<sup>250</sup> Another commenter argues that Industry Members pay membership fees, registration and licensing fees, and regulatory fees to Participants, yet the Proposed Funding Model did not address how these fees are allocated and why Industry Members must be responsible for a new funding requirement.<sup>251</sup> One commenter believes that revenues from fines should be allocated to the Company’s operating reserve in order to decrease CAT costs.<sup>252</sup>

In response to comments suggesting that regulatory fines and cost savings due to the retirement of OATS should be used to decrease CAT costs,<sup>253</sup> the Operating Committee states that it will not reduce CAT fees based on the ancillary effects of the CAT.<sup>254</sup> The

Operating Committee explains that the proposed CAT fees account for the costs to create, implement and maintain the CAT, not other aspects of the Participants’ regulatory operations.<sup>255</sup>

Finally, one commenter argues that the elimination of comparability as a funding principle removes support for the proposed cost allocation.<sup>256</sup> The commenter explains that comparability was key to the decision to propose the 75%–25% allocation to Industry Members and Participants when the Participants previously proposed CAT fees in 2017.<sup>257</sup> The commenter explains that the Participants removed comparability from the funding model because the Proposed Funding Model no longer assesses fees through tiers.<sup>258</sup> The commenter states, “if the principle driving the change to a no-tier approach is to assess fees more transparently on CAT Reporters in direct relation to the costs that each creates for the CAT with its reporting activity, the Proposed Funding Model fails to apply this principle consistently.”<sup>259</sup> The commenter adds that the Proposed Amendment does not discuss the impact of the removal of the tiers and the comparability principle on the funding model.<sup>260</sup>

In response to the comment,<sup>261</sup> the Operating Committee explains that the comparability provision was used to determine fee tiers. Since a tiered fee

<sup>255</sup> *Id.*

<sup>256</sup> See FINRA Letter at 2–4.

<sup>257</sup> On May 9, 2017, the Operating Committee for the Company filed proposed Amendment No. 2 to the CAT NMS Plan to establish the CAT fees to be paid by the Participants. See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Brent J. Fields, Secretary, Commission, dated May 9, 2017. See also Securities Exchange Act Release No. 80930 (June 14, 2017), 82 FR 28180 (June 20, 2017). The Commission issued an order of summary abrogation of Amendment No. 2 on July 21, 2017. See Securities Exchange Act Release No. 81189 (July 21, 2017), 82 FR 35005 (July 27, 2017). The Participants subsequently filed proposed Amendment No. 3 to the CAT NMS Plan on October 30, 2017 to establish the Participant CAT fees. See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Brent J. Fields, Secretary, Commission, dated October 30, 2017. On December 11, 2017, the Operating Committee filed proposed Amendment No. 4 to the CAT NMS Plan, which replaced and superseded Amendment No. 3 in its entirety. See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Brent J. Fields, Secretary, Commission, dated December 11, 2017. See also Securities Exchange Act Release No. 82451 (January 5, 2018), 83 FR 1399 (January 11, 2018). The Participants withdrew Amendment No. 4 to the CAT NMS Plan on January 11, 2018. See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Brent J. Fields, Secretary, Commission, dated January 10, 2018. See also Securities Exchange Act Release No. 82892 (March 16, 2018), 83 FR 12633 (March 22, 2018).

<sup>258</sup> See FINRA Letter at 4.

<sup>259</sup> *Id.*

<sup>260</sup> *Id.* at 7, n.17.

<sup>261</sup> *Id.* at 2–4.

<sup>245</sup> See CAT Operating Committee July 14th Letter II at 2.

<sup>246</sup> *Id.* at 2–4; Notice, *supra* note 4 at 21054–21055.

<sup>247</sup> See Tower Letter at 5; SIFMA Letter at 7; Virtu Letter at 3; FIA PTG May 12th Letter at 5; Parallax Letter at 4. See also Data Boiler Letter at 7 (suggesting that fines and settlements should fund the CAT).

<sup>248</sup> See SIFMA Letter at 7. See also MMI Letter at 5–6 (stating that information is needed concerning any potential cost-savings to FINRA from OATS retirement that could offset the cost of running the CAT, as well as a proposed TAF increase in 2022); Virtu Letter at 4 (stating that the Proposed Amendment should have analyzed whether FINRA’s TAF could offset CAT costs after OATS has been retired).

<sup>249</sup> See SIFMA Letter at 7.

<sup>250</sup> *Id.*

<sup>251</sup> See Virtu Letter at 3.

<sup>252</sup> See FIA PTG May 12th Letter at 5.

<sup>253</sup> *Id.*; MMI Letter at 5–6; SIFMA Letter at 7; Tower Letter at 5; Virtu Letter at 4.

<sup>254</sup> See CAT Operating Committee July 14th Letter I at 6.

<sup>235</sup> See Istra Letter at 3–4.

<sup>236</sup> *Id.* at 4.

<sup>237</sup> See Virtu Letter at 4, 6; Fidelity Letter at 4; SIFMA Letter at 7; Tower Letter at 5.

<sup>238</sup> See SIFMA Letter at 7.

<sup>239</sup> *Id.*

<sup>240</sup> See Fidelity Letter at 4.

<sup>241</sup> *Id.*

<sup>242</sup> See FINRA Letter at 9.

<sup>243</sup> *Id.*

<sup>244</sup> See Data Boiler Letter at 7; FIA PTG May 12th Letter at 4; Fidelity Letter at 2–4; FINRA Letter at 5; Istra Letter at 3; MMI Letter at 4; NYSE Letter at 2; Parallax Letter at 2; SIFMA Letter at 5–8; STA Letter at 4; Tower Letter at 4; Virtu Letter at 3–4.

structure would not be used under the Proposed Funding Model, the Operating Committee believes it is appropriate to delete the comparability provision as it is no longer relevant.<sup>262</sup>

#### *Allocation of Costs Between Equities and Options Participants*

Two commenters argue that the Proposed Amendment failed to justify the proposed 60%–40% allocation of costs between Equities and Options Participants.<sup>263</sup> Both commenters believe the Proposed Amendment lacks justification to support the allocation.<sup>264</sup> One commenter notes that the Participants previously stated that message traffic is a key cost driver of the CAT.<sup>265</sup> The commenter attests that the Proposed Funding Model would assess Options Participants, which generate significantly more message traffic than Equities Participants, a lesser amount of the total CAT costs than Equities Participants.<sup>266</sup> This commenter believes the result is inconsistent with the CAT's cost alignment principles<sup>267</sup> and that the Operating Committee does not explain how the result is consistent with the funding principles or the Exchange Act.<sup>268</sup> The other commenter believes the allocation is arbitrary and unfairly discriminatory.<sup>269</sup> The commenter opines that the explanation provided by the Participants—that the allocation was “subject to negotiations among the Participants”—is not a basis for approval under the Exchange Act, and notes that the majority of votes on the Operating Committee are held by Participants that operate options exchanges.<sup>270</sup>

In response to the comments,<sup>271</sup> the Operating Committee states that the proposed 60%–40% allocation of costs between Equities Participants and Options Participants is an appropriate allocation that is consistent with the CAT NMS Plan, which contemplates allocating Participant CAT fees based on activity in options and equities, and explains that the allocation was the

subject of negotiations among the Participants.<sup>272</sup>

#### *Use of Message Traffic for Industry Members*

Several commenters object to the use of message traffic as the basis of Industry Member CAT fees.<sup>273</sup> One commenter believes that message traffic is not an appropriate measure for allocating fees to Industry Members.<sup>274</sup> The commenter notes that the Participants “control how message traffic is defined, how message traffic is processed, and whether steps can be taken to reduce message traffic.”<sup>275</sup> The commenter argues that charging only Industry Members based on message traffic is not a fair allocation of reasonable fees because it creates no incentive for the Participants to control CAT message traffic and CAT costs.<sup>276</sup> The commenter believes the proliferation of exchanges has resulted in higher CAT message traffic, and thus higher costs, but notes that this is not analyzed in the funding model.<sup>277</sup> Another commenter suggests that additional data is needed to support the apportionment of CAT costs according to message count.<sup>278</sup>

One commenter notes that the elimination of comparability as a funding principle removes support for the proposed requirement to base Industry Members CAT fees on message traffic and Participant CAT fees on market share.<sup>279</sup> The commenter explains that comparability was key to the decision to propose message traffic as the basis of Industry Member CAT fees and market share as the basis of Execution Venue CAT fees when the Participants previously proposed CAT fees in 2017.<sup>280</sup>

Two commenters believe that the Proposed Funding Model needs to examine the impact of options quoting activity on CAT.<sup>281</sup> One commenter states that Options Market Maker

quoting comprises the “vast majority” of CAT messaging and that the design of the CAT should be reevaluated in case CAT is being “weighed down by options activity with little impact on market quality and traded volume.”<sup>282</sup> The other commenter states that the Proposed Funding Model lacks an analysis of the message traffic and costs generated by Options Market Makers that are required by SRO rules to provide quotes in over a million options series, even those that do not trade.<sup>283</sup>

In response to comments questioning the use of message traffic as a basis of Industry Member CAT fees,<sup>284</sup> the Operating Committee states that “the use of message traffic for allocating CAT costs among Industry Members is consistent with the CAT NMS Plan as approved by the Commission, and the proposal did not seek to change the use of message traffic for this purpose in the Proposed Funding Model.”<sup>285</sup> The Operating Committee notes that it explored allocating the Industry Member Allocation based on revenue related to activities in Eligible Securities, but decided it would be difficult to determine the types of Industry Member revenue to include in the calculation of a CAT fee using this approach.<sup>286</sup>

One commenter suggests that the Reportable Events that will constitute message traffic be defined in the CAT NMS Plan, rather than in the IM Reporting Tech Specs, so that any changes to the Reportable Events that would be defined as message traffic would be subject to the notice and comment process.<sup>287</sup> In response to the comment,<sup>288</sup> the Operating Committee states that “delineating the method for reporting Reportable Events used in the message traffic count in the Technical Specifications, rather than the CAT NMS Plan, is appropriate because the technical approach to reporting specific Reportable Events may vary over time.”<sup>289</sup>

Commenters also believe that the use of message traffic as a basis of Industry Member CAT fees could affect market participant behavior with harmful consequences to the markets.<sup>290</sup> Two

<sup>262</sup> See CAT Operating Committee July 14th Letter II at 4.

<sup>263</sup> See LTSE Letter at 5; FINRA Letter at 6. See also NYSE Letter at 2 (describing the proposed allocation as part of “an incomprehensible, distorted program”); MMI Letter at 5 (requesting further transparency and discussion on cost allocation methodology differences between Participants and Industry Members).

<sup>264</sup> See LTSE Letter at 5; FINRA Letter at 6.

<sup>265</sup> See FINRA Letter at 6.

<sup>266</sup> *Id.*

<sup>267</sup> See Section 11.2(a) and Section 11.2(b) of the CAT NMS Plan.

<sup>268</sup> See FINRA Letter at 6.

<sup>269</sup> See LTSE Letter at 5.

<sup>270</sup> *Id.*

<sup>271</sup> See FINRA Letter at 6; LTSE Letter at 5; MMI Letter at 5; NYSE Letter at 2.

<sup>272</sup> See CAT Operating Committee July 14th Letter II at 13–14.

<sup>273</sup> See SIFMA Letter at 8–10; Istra Letter at 3, 5; Virtu Letter at 5; SSGA Letter at 2; Data Boiler Letter at 7. See also NYSE Letter at 1, 3 (recommending a cost allocation framework based on executed share volume) and STA Letter at 4 (agreeing with the suggestion to use executed share volume); Fidelity Letter at 4 (stating that the Proposed Amendment has not explained why Industry Members must pay CAT fees based on message traffic while Participants will pay based on market share).

<sup>274</sup> See SIFMA Letter at 8–9.

<sup>275</sup> *Id.* at 9.

<sup>276</sup> *Id.*

<sup>277</sup> *Id.*

<sup>278</sup> See MMI Letter at 4.

<sup>279</sup> See FINRA Letter at 3–4.

<sup>280</sup> See *supra* note 257.

<sup>281</sup> See Istra Letter at 2; SIFMA Letter at 9.

<sup>282</sup> See Istra Letter at 2.

<sup>283</sup> See SIFMA Letter at 9.

<sup>284</sup> See Istra Letter at 4–5; MMI Letter at 4; SIFMA Letter at 8–9.

<sup>285</sup> See CAT Operating Committee July 14th Letter II at 6.

<sup>286</sup> *Id.*

<sup>287</sup> See Fidelity Letter at 2, 3.

<sup>288</sup> *Id.*

<sup>289</sup> See CAT Operating Committee July 14th Letter II at 6.

<sup>290</sup> See SIFMA Letter at 9; Virtu Letter at 5; Istra Letter at 5; SSGA Letter at 2.

commenters believe the Participants have not analyzed the impact of the proposed approach on the markets.<sup>291</sup> One commenter states that the Proposed Funding Model does not address whether market makers would reduce their quoting activity in order to reduce their CAT fees, even with the proposed market maker discounts.<sup>292</sup> The other commenter believes that such a reduction in message traffic could impact liquidity.<sup>293</sup>

One commenter believes that using message traffic as the basis of Industry Member CAT fees will hurt the provision of liquidity and harm market quality.<sup>294</sup> The commenter explains, “[a] message that becomes displayed on an exchange has obvious value to the entire market and not only to the broker (or its customer) providing that liquidity. Taxing the message will naturally discourage its provision.”<sup>295</sup> The commenter emphasizes the benefits of displayed quoting on the markets and the negative consequences of the potential reduction in this activity that could result from the proposed approach.<sup>296</sup>

One commenter discusses the potential negative impact on ETFs caused by the use of message traffic as the basis for Industry Member CAT fees.<sup>297</sup> The commenter believes that the proposed approach would result in a reduction in quoting to minimize CAT fees.<sup>298</sup> The commenter states that ETF market making activity is message-intensive and any changes in behavior caused by the proposed approach could “interfere with the arbitrage mechanism and negate the work by Industry Members and exchanges to promote tighter bid-ask spreads, deeper markets and greater participation among liquidity providers.”<sup>299</sup>

In response to comments questioning the effects of the use of message traffic to calculate fees on the markets,<sup>300</sup> the Operating Committee states that its proposed market maker discounts and the proposed Maximum Industry Member CAT Fee are designed to address potential disincentives. Additionally, the Operating Committee states that the market maker discounts “recognize the value of the market

making activity to the market as a whole.”<sup>301</sup>

#### *Use of Market Share for Participants*

Several commenters believe that Participants should be assessed fees based on message traffic rather than market share.<sup>302</sup> The commenters note that the primary driver of CAT costs is the processing and storage of message traffic; therefore, Participants should be assessed CAT fees based on message traffic.<sup>303</sup>

One commenter believes that using market share to determine Participant CAT fees “gives a free pass to Plan Participants who generate high levels of message traffic but have very little market share.”<sup>304</sup> This commenter believes that using message traffic as the basis of Industry Member CAT fees and market share as the basis of Participant CAT fees is inherently discriminatory, maximizes Industry Member costs and minimizes Participant costs, and appears to result from Participant conflicts of interest and a lack of industry input until the funding model.<sup>305</sup> Another commenter believes that using message traffic as the basis of Industry Member CAT fees and market share as the basis of Participant CAT fees is discriminatory and unsupportable.<sup>306</sup> One commenter believes the Proposed Amendment fails to explain why Industry Members will be assessed fees based on message traffic while Participants will be assessed fees based on market share.<sup>307</sup> Two commenters believe that the Participants will have no incentives to limit message traffic to lower costs if they are not being charged CAT fees based on message traffic.<sup>308</sup>

Another commenter, FINRA, believes that requiring market share to be the basis of Participant costs is inconsistent with CAT cost alignment principles<sup>309</sup> because message traffic is the key driver of costs, not market share.<sup>310</sup> The commenter notes that if the Participants believe FINRA’s CAT fee would be too low based on its message traffic, FINRA would consider paying a more appropriate amount or an allocation based on a combination of message traffic and market share.<sup>311</sup>

This commenter also objects to the use of market share in determining its CAT fees.<sup>312</sup> The commenter states that it would be responsible for 20% of the Equities Participant Allocation even though it generates less than 1% of equities message traffic reported to the CAT.<sup>313</sup> The commenter explains that its market share would be based on trade reporting volume reported through its facilities, which is also reported by Industry Members.<sup>314</sup> The commenter asks how this is consistent with the Operating Committee’s rationale for the use of market share to determine Participant CAT fees—that message traffic is not an appropriate basis for Participants because their message traffic is derivative of Industry Member reporting activity.<sup>315</sup> In addition, the commenter states that the Operating Committee justifies the use of market share for Participants because their business models are focused on executions; however, the commenter notes that “given FINRA’s unique role, trade volume is reported through FINRA for regulatory purposes, not to serve FINRA’s business purposes.”<sup>316</sup> The commenter adds that the Operating Committee justifies the use of market share as a basis for FINRA’s CAT fees as FINRA would be one of the largest regulatory users of the CAT.<sup>317</sup> The commenter asks “why regulatory usage is offered only to justify FINRA’s allocation of the proposed fee that is based on unrelated criteria (market share), particularly when all Participants may use CAT data for regulatory purposes.”<sup>318</sup> The commenter argues that the Operating Committee has not analyzed the costs of regulatory usage, and states that if a

<sup>301</sup> See CAT Operating Committee July 14th Letter II at 7.

<sup>302</sup> See FIA PTG May 12th Letter at 3; LTSE Letter at 2–3; FINRA Letter at 6–7, 9.

<sup>303</sup> See FIA PTG May 12th Letter at 3; LTSE Letter at 2; FINRA Letter at 6–7, 9.

<sup>304</sup> See FIA PTG May 12th Letter at 3. See also SIFMA Letter at 9 (stating that message traffic is a key driver of CAT costs and that the Participants generate a significant amount of message traffic, yet the Participants propose to base their own CAT fees on market share). See also Parallax Letter at 3 (recommending an analysis of the amount of message traffic that is driven by the Participants, such as market maker quoting).

<sup>305</sup> See FIA PTG May 12th Letter at 3.

<sup>306</sup> See IMC Letter at 2.

<sup>307</sup> See Fidelity Letter at 4. See also LTSE Letter at 2–3 (stating that the Participants have provided no metrics to support their rationale that message traffic is not an appropriate basis for Participant CAT fees because their message traffic is derivative of quotes and orders received from Industry Members that the Participants are required to display) and NYSE Letter at 2 (stating that the Proposed Amendment does not justify why some costs should be split by message traffic and other costs should be split by market share).

<sup>308</sup> See Virtu Letter at 5; LTSE Letter at 3.

<sup>309</sup> See *supra* note 267.

<sup>310</sup> See FINRA Letter at 6.

<sup>311</sup> *Id.* at 9.

<sup>312</sup> *Id.* at 7–9.

<sup>313</sup> *Id.* at 8.

<sup>314</sup> *Id.* at 7.

<sup>315</sup> *Id.* at 7.

<sup>316</sup> See FINRA Letter at 7–8.

<sup>317</sup> *Id.* at 8.

<sup>318</sup> *Id.*

<sup>291</sup> See SIFMA Letter at 9; Virtu Letter at 5.

<sup>292</sup> See SIFMA Letter at 9.

<sup>293</sup> See Virtu Letter at 5.

<sup>294</sup> See Istra Letter at 5.

<sup>295</sup> *Id.*

<sup>296</sup> *Id.*

<sup>297</sup> See SSGA Letter at 2.

<sup>298</sup> *Id.*

<sup>299</sup> *Id.*

<sup>300</sup> See Istra Letter at –5; MMI Letter at 4; SIFMA Letter at 9; SSGA Letter at 2; Tower Letter at 1; Virtu Letter at 5.

regulatory usage fee is appropriate, it should apply to all Participants.<sup>319</sup>

In response to comments questioning the use of market share to calculate Participant fees,<sup>320</sup> the Operating Committee states that the CAT NMS Plan contemplates that Participants pay a CAT fee that is based on market share. After considering alternatives to the use of market share, the Operating Committee concluded that market share would equitably allocate CAT fees among Participants. The Operating Committee reiterates arguments it made in support of the use of market share in the Proposed Amendment.<sup>321</sup>

#### *Maximum Equities Participant Fee*

Two commenters object to the Maximum Equities Participant Fee because they believe that the sole Participant subject to the fee—FINRA—would be unfairly afforded preferential treatment.<sup>322</sup> One commenter believes that FINRA should receive a higher portion of CAT costs than Participants that lack a surveillance business because FINRA can capitalize off of the predecessor plan processor's development work and its technology will benefit from CAT.<sup>323</sup> The commenter believes that FINRA should not be permitted re-allocation of its CAT fee under the Maximum Equities Participant Fee.<sup>324</sup> The commenter also states, "[a]lthough we acknowledge that the nature of OTC trading in penny level may inherently be different from the proposed message traffic measurement use in Equity/Listed Option Group Split, similar arguments may apply to thinly traded securities, ESG stocks, etc., which SEC rule should avoid 'craft-out.'" <sup>325</sup>

In response to the comment noting the nature of trading in OTC Equity Securities,<sup>326</sup> the Operating Committee states that it proposes to exclude OTC Equity Securities share volume from the calculation of market share for national securities exchanges. The Operating Committee reiterates the arguments it made in support of the proposed exclusion of OTC Equity Securities

share volume in the Proposed Amendment.<sup>327</sup>

The other commenter believes that the Maximum Equities Participant Fee market share caps and re-allocation are arbitrary and unfairly discriminatory.<sup>328</sup> The commenter believes that the proposal lacks justification for requiring other Equities Participants to be allocated FINRA's market share when FINRA's activity does not occur on their markets.<sup>329</sup> The commenter notes, "[t]he stated rationale that this is necessary for the FINRA fees to be 'fair and reasonable' is subjective, unsupported by any data, and further highlights the shortcomings of a fee model based on market share."<sup>330</sup>

One commenter, FINRA, also objects to the Maximum Equities Participant Fee because it is based on the use of market share for calculating FINRA's CAT fees, which FINRA believes is inconsistent with the funding principles of the CAT NMS Plan and ill-suited to FINRA's unique model.<sup>331</sup>

In response to comments received on the Maximum Equities Participant Fee,<sup>332</sup> the Operating Committee reiterates the arguments it made in support of the proposed Maximum Equities Participant Fee in the Proposed Amendment.<sup>333</sup>

#### *Minimum Participant Fee*

One commenter objects to the proposed Minimum Participant Fee as inconsistent with the notion that market share is a fair method of allocation,<sup>334</sup> and as arbitrary and unfairly discriminatory.<sup>335</sup> The commenter states that this fee would be paid by every Participant, regardless of its market share, and notes that this fee can significantly increase even if a Participant itself is not creating increased costs to the CAT.<sup>336</sup> The commenter questions why some Participants would incur a higher Minimum Participant Fee when only certain Participants engage in activity that results in increased CAT message traffic.<sup>337</sup> The commenter also notes that a Participant that operates both an

options and equities exchange would be assessed only one Minimum Participant Fee.<sup>338</sup>

In response to the comments on the Minimum Participant Fee,<sup>339</sup> the Operating Committee reiterates the arguments it made in support of the proposed Minimum Participant Fee in the Proposed Amendment.<sup>340</sup>

#### *Maximum Industry Member CAT Fee*

Several commenters express concern about the Maximum Industry Member CAT Fee.<sup>341</sup> One commenter believes the Maximum Industry Member CAT Fee "exacerbates inequalities"<sup>342</sup> and believes that small firms should not be responsible for subsidizing the CAT fees for the top 36 firms that generate the vast majority of message traffic.<sup>343</sup> Similarly, another commenter believes that a lack of transparency into the re-allocation of CAT fees for Industry Members in excess of the Maximum Industry Member CAT Fee adds complexity and makes it difficult for Industry Members to calculate their costs under the Proposed Funding Model.<sup>344</sup> This commenter also believes the cap of 8% of total Industry Member CAT message traffic is arbitrary.<sup>345</sup>

Another commenter objects to the 8% cap, explaining that the proposal has not fully justified the cap, and that it provides large brokers an unfair advantage by requiring other Industry Members, including their direct competitors, to pay the large brokers' re-allocation of fees in excess of the Maximum Industry Member CAT Fee.<sup>346</sup> Finally, one commenter believes the Proposed Funding Model insufficiently analyzes the "cross-subsidization that results from the proposed minimum and maximum Industry Member fees" nor does it explain the reasoning behind the creation of the Maximum Industry Member CAT Fee.<sup>347</sup>

In response to comments on the Maximum Industry Member CAT Fee,<sup>348</sup> the Operating Committee reiterates the arguments it made in support of the proposed Maximum

<sup>319</sup> *Id.* at 8–9.

<sup>320</sup> See FIA PTG May 12th Letter at 3; Fidelity Letter at 4; FINRA Letter at 6–7; IMC Letter at 2; LTSE Letter at 2–3; MMI Letter at 5; NYSE Letter at 2; SIFMA Letter at 8–9.

<sup>321</sup> See CAT Operating Committee July 14th Letter II at 12–13; Notice, *supra* note 4, at 21060.

<sup>322</sup> See Data Boiler Letter at 8–9; LTSE Letter at 5. See also NYSE Letter at 2 (noting the added complexity of the "bespoke fee structure for FINRA").

<sup>323</sup> See Data Boiler Letter at 8–9.

<sup>324</sup> *Id.* at 9.

<sup>325</sup> *Id.* at 8.

<sup>326</sup> *Id.*

<sup>327</sup> See CAT Operating Committee July 14th Letter II at 14; Notice, *supra* note 4, at 21061.

<sup>328</sup> See LTSE Letter at 5.

<sup>329</sup> *Id.*

<sup>330</sup> *Id.*

<sup>331</sup> See *supra* text accompanying notes 312–319.

<sup>332</sup> See Data Boiler Letter at 9; FINRA Letter at 7–9; LTSE Letter at 5; NYSE Letter at 2.

<sup>333</sup> See CAT Operating Committee July 14th Letter II at 15; Notice, *supra* note 4, at 21062.

<sup>334</sup> See LTSE Letter at 4.

<sup>335</sup> See LTSE Letter at 4. See also NYSE Letter at 2 (noting the added complexity of the Minimum Participant Fee).

<sup>336</sup> See LTSE Letter at 4.

<sup>337</sup> *Id.* at 4–5.

<sup>338</sup> *Id.* at 4, n.9.

<sup>339</sup> *Id.* at 4–5; NYSE Letter at 2.

<sup>340</sup> See CAT Operating Committee July 14th Letter II at 15; Notice, *supra* note 4, at 21060.

<sup>341</sup> See Data Boiler Letter at 7–8; Tower Letter at 6; FINRA Letter at 5–6; MMI Letter at 5; SIFMA Letter at 9.

<sup>342</sup> See Data Boiler Letter at 7.

<sup>343</sup> *Id.*

<sup>344</sup> See SIFMA Letter at 9.

<sup>345</sup> *Id.*

<sup>346</sup> See Tower Letter at 6.

<sup>347</sup> See FINRA Letter at 5.

<sup>348</sup> See Data Boiler Letter at 7–8; FINRA Letter at 5–6; MMI Letter at 5; SIFMA Letter at 9; Tower Letter at 6.

Industry CAT Fee in the Proposed Amendment.<sup>349</sup>

#### *Minimum Industry Member CAT Fee*

Two commenters object to the Minimum Industry Member CAT Fee.<sup>350</sup> One of the commenters believes the Minimum Industry Member CAT Fee poses an undue burden on Industry Members and, by charging a “de minimis fee,” is inconsistent with Section 11.2(d), which requires the Operating Committee to provide for ease of billing and other administrative functions.<sup>351</sup>

The other commenter believes the proposal lacks justification for the Minimum Industry CAT Fee, explaining that the fee could increase for firms with little message traffic due to the redistribution of CAT fees in excess of the Maximum Industry Member CAT Fee.<sup>352</sup> The commenter states this result was not discussed in the Proposed Funding Model nor was there a discussion of how the result is consistent with the CAT funding principles.<sup>353</sup>

In response to the comments,<sup>354</sup> the Operating Committee reiterates the arguments it made in support of the proposed Minimum Industry Member CAT Fee in the Proposed Amendment.<sup>355</sup>

#### *Market Maker Discounts*

Five commenters object to the proposed market maker discounts.<sup>356</sup> One commenter objects to the market maker discounts due to what it deems the improper discounting of Equity Market Maker message traffic and the preferential treatment of Options Market Makers at the expense of equities Industry Members.<sup>357</sup> The commenter criticizes the trade-to-quote ratio that is the basis of the proposed market maker discounts, explaining that it “ignores the realities of the market.”<sup>358</sup> The commenter suggests only including trades executed on-exchange and not off-exchange in the ratio.<sup>359</sup>

Additionally, the commenter objects to the use of the SIP best bid and offer information in deriving the trade-to-quote ratio, explaining that this method undercounts the “activity and value contribution of equities market makers and further underestimates any market maker discount.”<sup>360</sup> The commenter also argues that, after the Options Market Maker discount, equities Industry Members would be required to pay 95% of the CAT cost when only responsible for 12% of the message traffic, a “grossly unfair cross-subsidy.”<sup>361</sup> The commenter states that at least 40% of Industry Member costs should be borne by options Industry Members if message traffic is the key driver of CAT costs.<sup>362</sup> Another commenter states that the “massive discounts” demonstrate that the Participants “have not found a way to perform the core functions needed for market surveillance, without the cost of it putting at risk an entire segment of the industry.”<sup>363</sup>

Similarly, another commenter states that 89% of all Industry Member CAT Reportable Events comes from Options Market Makers, but the proposed Options Market Maker discount reduces 99% of the billable events for Options Market Makers, with the result being 94% of Industry Members’ share allocated to equities non-market makers.<sup>364</sup> The commenter urges the Participants to justify this shift of costs to Industry Members that are not Options Market Makers and notes that the Proposed Amendment has not analyzed the effects of the discounts or has demonstrated that the discounts will be effective.<sup>365</sup> The commenter states that the Proposed Amendment is lacking in several other areas with respect to these discounts; there is no discussion of: (1) How the proposed market maker discount provides a pricing advantage to market makers that is unavailable to other market participants; (2) how the trade-to-quote ratio is the correct metric to use for determining the market maker discounts; (3) how the discount incentivizes market makers to quote

more without trading more; (4) how/whether the discount calculation will change if the trade-to-quote ratio significantly changes; and (5) any impacts on liquidity and market participant behavior.<sup>366</sup> The commenter also believes the Proposed Amendment lacks a discussion of its potential impact on business lines across the industry, such as, for example, its effect on ATSS, which would not be considered market makers and thus could incur high costs.<sup>367</sup> The commenter attests that the Proposed Amendment lacks the information necessary to assess the effect of the proposed market maker discounts, such as the number of transactions resulting from market makers and how market-makers transactions should be discounted from the total number of transactions using the trade-to-quote ratio.<sup>368</sup>

In response to the comment on the proposal’s potential effects on business lines across the industry,<sup>369</sup> the Operating Committee states that it sought to limit any negative effects on certain CAT Reporters resulting from the use of message traffic to calculate fees, such as through the proposed market maker discounts and the proposed Maximum Industry Member CAT Fee.<sup>370</sup>

One commenter opposes any market maker discounts, but notes that smaller market makers that do not pay or receive rebates deserve subsidies to encourage their participation.<sup>371</sup> Another commenter believes the impact of market maker discounts, as well as the Maximum Industry Member CAT Fee, adds complexity and makes it difficult for Industry Members to calculate their costs.<sup>372</sup> In response to comments on the market maker discounts,<sup>373</sup> the Operating Committee reiterates its rationale for proposing the discounts from the Proposed Amendment.<sup>374</sup>

Two commenters endorse the proposed market maker discounts.<sup>375</sup> One commenter believes any funding plan should include these discounts and that additional product-specific

<sup>349</sup> See CAT Operating Committee July 14th Letter II at 12; Notice, *supra* note 4, at 21059.

<sup>350</sup> See Data Boiler Letter at 7; FINRA Letter at 5–6.

<sup>351</sup> See Data Boiler Letter at 7.

<sup>352</sup> See FINRA Letter at 5–6.

<sup>353</sup> See FINRA Letter at 5–6.

<sup>354</sup> See Data Boiler Letter at 7; FINRA Letter at 5–6.

<sup>355</sup> See CAT Operating Committee July 14th Letter II at 7; Notice, *supra* note 4, at 21058–21059.

<sup>356</sup> See Data Boiler Letter at 7, 8, 9; SIFMA Letter at 9; Tower Letter at 5–6; Istra Letter at 3–5; Parallax Letter at 3.

<sup>357</sup> See Istra Letter at 3–5.

<sup>358</sup> *Id.* at 4–5. See also Parallax Letter at 3 (stating that the trade-to-quote ratio needs further analysis).

<sup>359</sup> See Istra Letter at 4.

<sup>360</sup> *Id.* at 5.

<sup>361</sup> *Id.* at 4.

<sup>362</sup> *Id.*

<sup>363</sup> See Parallax Letter at 3. This commenter also suggests that there should be a process to confirm that Industry Members accurately identify themselves as market makers to receive the proposed market maker discounts, and penalties for those who wrongfully identify themselves or their activities to receive a discount. *Id.*

<sup>364</sup> See Tower Letter at 6.

<sup>365</sup> *Id.* at 5–6. See also Parallax Letter at 4 (stating that it is important to understand the extent to which Industry Members would benefit from the discounts).

<sup>366</sup> See Tower Letter at 5.

<sup>367</sup> *Id.* at 6.

<sup>368</sup> *Id.* at 3.

<sup>369</sup> *Id.* at 6.

<sup>370</sup> See CAT Operating Committee July 14th Letter II at 7.

<sup>371</sup> See Data Boiler Letter at 9.

<sup>372</sup> See SIFMA Letter at 9.

<sup>373</sup> See FIA PTG May 12th Letter at 4; IMC Letter at 2; Data Boiler Letter at 7; SIFMA Letter at 9; Istra Letter at 2–4; Parallax Letter at 3; Tower Letter at 5–6.

<sup>374</sup> See CAT Operating Committee July 14th Letter II at 9; Notice, *supra* note 4, at 21057–21058.

<sup>375</sup> See IMC Letter at 2; FIA PTG May 12th Letter at 4.

discounts should be considered.<sup>376</sup> Another commenter believes the discounts prevent market makers from incurring “a disproportionate percentage of CAT costs, which could impact their provision of liquidity.”<sup>377</sup>

One commenter requests clarification on the proposed market maker discounts, specifying “cost allocation data and projections on market maker vs. non-market maker liquidity providers.”<sup>378</sup> The commenter also asks for further transparency and discussion on the application of the discounts on Industry Members with the most message traffic, at the expense of other Industry Members.<sup>379</sup>

#### *Proposed Alternative Funding Models*

Several commenters suggest alternatives to the Proposed Funding Model.<sup>380</sup> One commenter believes that fines and settlements should fund the CAT and that market participants that pose higher risks should pay higher CAT fees due to regulators’ “extra efforts in deciphering their complex business activities.”<sup>381</sup> The commenter also suggests the Suspicious Activity Report (“SAR”)<sup>382</sup> as a basis for determining Industry Member CAT fees, stating that Industry Members that underreport on the SAR should have increased fines.<sup>383</sup> The commenter believes that dark pools should pay higher CAT fees than SROs because they pose higher potential risks due to lack of transparency and “vulnerability to conflicts of interest,”<sup>384</sup> and also notes that internalizers or market makers may pose more of a risk than dark pools due to greater vulnerability to conflicts of interest.<sup>385</sup>

Other commenters recommend a funding model administered similar to the Commission’s Section 31 fees.<sup>386</sup>

Two commenters explain that the Participants could be assigned all of the CAT costs and then they would decide how to reallocate those costs to their market participants, like Section 31 fees.<sup>387</sup> One of the commenters believes that this method would incentivize Participants into better managing CAT costs and possibly incentivize them into competing over how to allocate costs their market participants.<sup>388</sup> Another commenter also suggests that the Commission could instead increase the rate of Section 31 fees to fund the CAT.<sup>389</sup>

One commenter believes that a 50%–50% cost allocation among Industry Members and Participants would be preferable to the proposed 75%–25% cost allocation,<sup>390</sup> but notes a simpler and direct way of allocating costs through derived value, which the commenter believes would not deter the provision of liquidity.<sup>391</sup> The commenter suggests using a methodology similar to the Section 31 fee or the Section 31 fee methodology itself.<sup>392</sup>

Another commenter, a national securities exchange, provides a detailed alternative funding model administered similarly to Section 31 fees.<sup>393</sup> According to the alternative model, CAT costs would be allocated based on executed share volume, which is already tracked by market participants.<sup>394</sup> A per share or per contract fee would be calculated by dividing the annual budget cost base by projected total industry volume.<sup>395</sup> One-third of the fee would be allocated to the purchasing broker-dealer, one-third to the selling broker-dealer, and one-third to the exchange or trade reporting facility reporting the transaction.<sup>396</sup> The commenter believes that this allocation would align funding responsibility with the receipt of economic benefits from the marketplace and would result in transparent and predictable CAT funding costs.<sup>397</sup> The commenter notes that OTC equities would be treated differently due to their significantly higher share volumes, and suggests that they receive a small portion of the CAT budget that would be allocated among the buyer, seller and the Over-the-Counter

Reporting Facility on a per share basis.<sup>398</sup> The commenter believes that requiring all parties active in each transaction to evenly fund the CAT would allocate costs transparently, and that billing in accordance with Section 31 fee billing processes would be “an efficient method to administer funding program and provide clarity to market participants of their trading expenses.”<sup>399</sup>

Two commenters believe the national securities exchange’s suggested alternative funding model deserves review.<sup>400</sup> Both commenters support the alternative’s suggestion to base funding on executed volume rather than message traffic via a structure administered like Section 31 fees volume rather than message traffic.<sup>401</sup> However, one commenter expresses concern about the alternative’s suggested allocation of the per share cost, explaining that FINRA’s costs would be passed to Industry Members through the TAF.<sup>402</sup> Additionally, one commenter warns that this alternative, and the suggestions to use Section 31 fees as a model, could result in costs assessed against investors and urges the Commission to consider the possibility of increased costs and whether investors should be responsible for these costs.<sup>403</sup>

#### **V. Proceedings To Determine Whether To Approve or Disapprove the Proposed Amendment**

The Commission is instituting proceedings pursuant to Rule 608(b)(2)(i) of Regulation NMS,<sup>404</sup> and Rules 700 and 701 of the Commission’s Rules of Practice,<sup>405</sup> to determine whether to disapprove the Proposed Amendment or to approve the Proposed Amendment with any changes or subject to any conditions the Commission deems necessary or appropriate after considering public comment. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the Proposed Amendment to inform the Commission’s analysis.

Rule 608(b)(2) of Regulation NMS provides that the Commission “shall approve a national market system plan or proposed amendment to an effective

<sup>376</sup> See IMC Letter at 2.

<sup>377</sup> See FIA PTG May 12th Letter at 4.

<sup>378</sup> See MMI Letter at 5.

<sup>379</sup> *Id.*

<sup>380</sup> See NYSE Letter at 2–5; Data Boiler Letter at 7–8; STA Letter at 4; FIA PTG May 12th Letter at 4; Istra Letter at 5–6; IMC Letter at 3; MMI Letter at 5.

<sup>381</sup> See Data Boiler Letter at 8.

<sup>382</sup> 12 CFR 21.11.

<sup>383</sup> See Data Boiler Letter at 7–8.

<sup>384</sup> *Id.*

<sup>385</sup> *Id.* In response to this comment, the Operating Committee states that the Proposed Funding Model would treat ATSs as Industry Members, requiring all Industry Members to pay a fee based on message traffic rather than requiring some ATSs to pay a fee based on market share and some ATSs to pay a fee based on message traffic, and would also address concerns that treating Execution Venue ATSs as Participants could create a barrier to entry for smaller ATSs. See CAT Operating Committee July 14th Letter II at 7–8.

<sup>386</sup> See MMI Letter at 5; Istra Letter at 5–6; FIA PTG May 12th Letter at 4; IMC Letter at 2–3; STA Letter at 4; NYSE Letter at 2–5.

<sup>387</sup> See MMI Letter at 5; FIA PTG May 12th Letter at 4.

<sup>388</sup> See FIA PTG May 12th Letter at 4.

<sup>389</sup> See MMI Letter at 5.

<sup>390</sup> See Istra Letter at 5.

<sup>391</sup> *Id.* at 5–6.

<sup>392</sup> *Id.*

<sup>393</sup> See NYSE Letter at 2–5.

<sup>394</sup> *Id.* at 3.

<sup>395</sup> *Id.*

<sup>396</sup> *Id.*

<sup>397</sup> *Id.*

<sup>398</sup> *Id.*

<sup>399</sup> See NYSE Letter at 5.

<sup>400</sup> See IMC Letter at 3; STA Letter at 4.

<sup>401</sup> See IMC Letter at 2–3; STA Letter at 4.

<sup>402</sup> See STA Letter at 4.

<sup>403</sup> See Parallax Letter at 4–5.

<sup>404</sup> 17 CFR 242.608.

<sup>405</sup> 17 CFR 201.700; 17 CFR 201.701.

national market system plan, with such changes or subject to such conditions as the Commission may deem necessary or appropriate, if it finds that such plan or amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Exchange Act.”<sup>406</sup> Rule 608(b)(2) further provides that the Commission shall disapprove a national market system plan or proposed amendment if it does not make such a finding.<sup>407</sup> In the Notice, the Commission sought comment on the Proposed Amendment, including whether the Proposed Amendment is consistent with the Exchange Act.<sup>408</sup> In this order, pursuant to Rule 608(b)(2)(i) of Regulation NMS,<sup>409</sup> the Commission is providing notice of the grounds for disapproval under consideration:

- Whether, consistent with Rule 608 of Regulation NMS, the Participants have demonstrated how the Proposed Amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Exchange Act;<sup>410</sup>

- Whether the Participants have demonstrated how the Proposed Amendment is consistent with Section 6(b)(4)<sup>411</sup> and Section 15A(b)(5),<sup>412</sup> of the Exchange Act, which require that the rules of a national securities exchange “provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities” and that the rules of a national securities association “provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls;”

- Whether the Participants have demonstrated how the Proposed Amendment is consistent with Section 6(b)(5)<sup>413</sup> and Section 15A(b)(6),<sup>414</sup> of the Exchange Act, which require that the rules of a national securities exchange or national securities

association “promote just and equitable principles of trade . . . protect investors and the public interest; and [to be] not designed to permit unfair discrimination between customers, issuers, brokers, or dealers;”

- Whether the Participants have demonstrated how the Proposed Amendment is consistent with Section 6(b)(8)<sup>415</sup> and Section 15A(b)(9)<sup>416</sup> of the Exchange Act, which require that the rules of a national securities exchange or national securities association “do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Exchange Act];”

- Whether the Participants have demonstrated how the Proposed Amendment is consistent with the funding principles of the CAT NMS Plan, which state that the Operating Committee shall seek, among other things, “to create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and the other costs of the Company,”<sup>417</sup> “to establish an allocation of the Company’s related costs among Participants and Industry Members that is consistent with the Exchange Act taking into account . . . distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company resources and operations,”<sup>418</sup> “to provide for ease of billing and other administrative functions,”<sup>419</sup> and “to avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality;”<sup>420</sup>

- Whether, and if so how, the Proposed Amendment would affect efficiency, competition or capital formation; and

- Whether modifications to the Proposed Amendment, or conditions to its approval, would be necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Exchange Act.<sup>421</sup>

As discussed in Section IV., above, the Participants made various arguments in support of the Proposed Amendment and the Commission

received comment letters that expressed concerns about the Proposed Amendment, including that the Participants did not provide sufficient information to establish that the Proposed Amendment is consistent with the Exchange Act and the rules thereunder.

Under the Commission’s Rules of Practice, the “burden to demonstrate that a NMS plan filing is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the plan participants that filed the NMS plan filing.”<sup>422</sup> The description of the NMS plan filing, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding.<sup>423</sup> Any failure of the plan participants that filed the NMS plan filing to provide such detail and specificity may result in the Commission not having a sufficient basis to make an affirmative finding that the NMS plan filing is consistent with the Exchange Act and the applicable rules and regulations thereunder.<sup>424</sup>

## VI. Commission’s Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the Proposed Amendment. In particular, the Commission invites the written views of interested persons concerning whether the Proposed Amendment is consistent with Section 11A or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 608(b)(2)(i) of Regulation NMS,<sup>425</sup> any request for an opportunity to make an oral presentation.<sup>426</sup> The Commission asks that commenters address the sufficiency and merit of the Participants’ statements in support of the Proposed Amendment,<sup>427</sup> in addition to any other comments they

<sup>406</sup> 17 CFR 242.608(b)(2).

<sup>407</sup> *Id.*

<sup>408</sup> See Notice, *supra* note 4.

<sup>409</sup> 17 CFR 242.608(b)(2)(i).

<sup>410</sup> 17 CFR 242.608(b)(2).

<sup>411</sup> 15 U.S.C. 78f(b)(4).

<sup>412</sup> 15 U.S.C. 78o–3(b)(5).

<sup>413</sup> 15 U.S.C. 78f(b)(5).

<sup>414</sup> 15 U.S.C. 78o–3(b)(6).

<sup>415</sup> 15 U.S.C. 78f(b)(8).

<sup>416</sup> 15 U.S.C. 78o–3(b)(9).

<sup>417</sup> Section 11.2(a) of the CAT NMS Plan.

<sup>418</sup> Section 11.2(b) of the CAT NMS Plan.

<sup>419</sup> Section 11.2(d) of the CAT NMS Plan.

<sup>420</sup> Section 11.2(e) of the CAT NMS Plan.

<sup>421</sup> 17 CFR 242.608(b)(2).

<sup>422</sup> 17 CFR 201.701(b)(3)(iii).

<sup>423</sup> *Id.*

<sup>424</sup> *Id.*

<sup>425</sup> 17 CFR 242.608(b)(2)(i).

<sup>426</sup> Rule 700(c)(ii) of the Commission’s Rules of Practice provides that “[t]he Commission, in its sole discretion, may determine whether any issues relevant to approval or disapproval would be facilitated by the opportunity for an oral presentation of views.” 17 CFR 201.700(c)(ii).

<sup>427</sup> See Notice, *supra* note 4.

may wish to submit about the proposed rule changes. In particular, the Commission seeks comment on the following:

*A. Requests for Comment on the Proposed Funding Model*

1. Commenters' views on the proposed inclusion of ATs as Industry Members for purposes of allocating CAT costs;

2. Commenters' views on the exclusion of reported OTC Equity Securities share volume from the calculation of market share for national securities associations;

3. Commenters' views on the proposed elimination of tiered fees in favor of CAT fees that may vary based on message traffic or market share, as applicable;

4. Commenters' views on the proposed elimination from Section 11.2(c) of the CAT NMS Plan of the requirement that the fees charged to CAT Reporters with the most CAT-related activity be generally comparable;

5. Commenters' views on the proposed Minimum Industry Member CAT Fee and the requirement that all Industry Members pay such fee, even if they have not yet started reporting to the CAT, and any views on whether the Proposed Funding Model has provided sufficient information on the operation of the fee and on whether the Proposed Funding Model has sufficiently explained the operation of the Minimum Industry Member CAT Fee Re-Allocation;

6. Commenters' views on the proposed Maximum Industry Member CAT Fee; any views on whether the Proposed Amendment contains sufficient justification for the 8% cap chosen for the fee; and any views on whether a maximum fee is consistent with the funding principles expressed in the CAT NMS Plan that states that the Operating Committee shall seek, among other things, "to create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and the other costs of the Company,"<sup>428</sup> "to establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act taking into account . . . distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company resources and operations,"<sup>429</sup> and "to avoid any disincentives such as placing an

inappropriate burden on competition and a reduction in market quality;"<sup>430</sup>

7. Commenters' views on why Industry Member CAT fees should be capped; views on how such a cap would benefit or harm efficiency, competition, and capital formation; and any views on whether there are other benefits or costs of adopting such an approach;

8. Commenters' views on the proposed Minimum Participant Fee and the Maximum Equities Participant Fee, including views on the calculation of the proposed fees and any views on whether the proposed fees raise any competitive issues among the Participants; and any views on whether the proposed fees are consistent with the funding principles expressed in the CAT NMS Plan, which state that the Operating Committee shall seek, among other things, "to create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and the other costs of the Company;"<sup>431</sup> "to establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act taking into account . . . distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company resources and operations;"<sup>432</sup> and "to avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality;"<sup>433</sup>

9. Commenters' views on whether FINRA's CAT fee should be capped; any views on how such a cap benefits or harms efficiency, competition, and capital formation; and any views on whether there are other benefits or costs of adopting such an approach;

10. Commenters' views on why Participants should be charged the Minimum Participant Fee; views on how such a minimum would benefit or harm efficiency, competition, and capital formation; and any views on whether there are other benefits or costs of adopting such an approach;

11. Commenters' views on the proposed market maker discounts, any views on the potential impact of the discounts on market participant behavior, including the provision of liquidity; and any views on whether the proposed market maker discounts are consistent with the funding principles expressed in the CAT NMS Plan, which state that the Operating Committee shall

seek, among other things, "to create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and the other costs of the Company,"<sup>434</sup> "to establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act taking into account . . . distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company resources and operations,"<sup>435</sup> and "to avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality;"<sup>436</sup>

12. Commenters' views on how market-making activity should be defined for purposes of the proposed market maker discounts; views on whether there is activity included in the definition of market making that should not be included for purposes of allocation of CAT fees; and any views on whether such a discount should apply to market-making activities in all types of securities without regard to security characteristics;

13. Commenters' views on whether other Industry Members (including those that do not transact in options) would subsidize the activity of Options Market Makers under the proposal; any views on whether Section 6.4(d)(iii)<sup>437</sup> of the CAT NMS Plan effectively reduces the message traffic of Options Market Makers relative to what it would be otherwise, and thus ultimately reduce the CAT fees they would be assigned under the Participants' proposal; views on how this subsidization would benefit or harm efficiency, competition, and capital formation; views on whether there are other benefits or costs of adopting such an approach; views (in detail) on whether there is an alternative approach

<sup>428</sup> Section 11.2(a) of the CAT NMS Plan.

<sup>429</sup> Section 11.2(b) of the CAT NMS Plan.

<sup>430</sup> Section 11.2(e) of the CAT NMS Plan.

<sup>437</sup> Section 6.4(d)(iii) of the CAT NMS Plan states, "With respect to the reporting obligations of an Options Market Maker with regard to its quotes in Listed Options, Reportable Events required pursuant to Section 6.3(d)(ii) and (iv) shall be reported to the Central Repository by an Options Exchange in lieu of the reporting of such information by the Options Market Maker. Each Participant that is an Options Exchange shall, through its Compliance Rule, require its Industry Members that are Options Market Makers to report to the Options Exchange the time at which a quote in a Listed Option is sent to the Options Exchange (and, if applicable, any subsequent quote modifications and/or cancellation time when such modification or cancellation is originated by the Options Market Maker). Such time information also shall be reported to the Central Repository by the Options Exchange in lieu of reporting by the Options Market Maker."

<sup>431</sup> Section 11.2(e) of the CAT NMS Plan.

<sup>432</sup> Section 11.2(a) of the CAT NMS Plan.

<sup>433</sup> Section 11.2(b) of the CAT NMS Plan.

<sup>434</sup> Section 11.2(e) of the CAT NMS Plan.

<sup>428</sup> Section 11.2(a) of the CAT NMS Plan.

<sup>429</sup> Section 11.2(b) of the CAT NMS Plan.

that would be more beneficial to efficiency, competition, or capital formation; and any views on whether the discount to fees allocated to Industry Members for market making activity described in the Participants' proposal provide a similar magnitude of benefit to Equity Market Makers;

*B. Requests for Comment on the Proposed Fee Schedule*

1. Commenters' views on the determination to allocate 75% of the Total CAT Costs to Industry Members and 25% of the Total CAT Costs to Participants; and any views on whether this proposed allocation is consistent with the funding principles expressed in the CAT NMS Plan, which state that the Operating Committee shall seek, among other things, "to establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act taking into account . . . distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company resources and operations,"<sup>438</sup> and "to avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality;"<sup>439</sup>

2. Commenters' views on the rationale provided that the proposed 75%–25% allocation ensures that Industry Members with the most message traffic pay comparable fees to Participant complexes with the most market share, considering the proposed deletion from Section 11.2(c) of the CAT NMS Plan of the requirement that the fees charged to CAT Reporters with the most CAT-related activity be generally comparable;

3. Commenters' views on whether allocating Participant fees by market share while allocating Industry Member fees by message traffic, when combined with the proposed 75%–25% split between Participants and Industry Member aggregate fees, introduces frictions (such as effectively double counting the message traffic sent and received by Industry Members, into the CAT fee model due to FINRA's allocation of fees from trade volume reported to trade reporting facilities); views on how frictions would result; any views on how this would benefit or harm efficiency, competition, and capital formation; any views on whether there are other benefits or costs of adopting such an approach; and any views on whether capping FINRA's contribution to CAT fees as described in

the Participants' proposal mitigate any benefits or costs and to what extent;

4. Commenters' views on potential alternative allocations of Total CAT Costs to Industry Members and Participants, including the allocations considered, but rejected, by the Participants, and the alternative allocations suggested by commenters as discussed in this order;

5. Commenters' views on how fees would be passed on to Industry Members and investors if all CAT costs were allocated to Participants; views on how this outcome would be different than under the Participants' proposal; views on whether such an approach would benefit or harm efficiency, competition, and capital formation; and any views on whether there are other benefits or costs of adopting such an approach;

6. Commenters' views on whether Industry Members have sufficient information to estimate and budget for their expected allocation of CAT fees each quarter; if not, any views on what additional information would Industry Members need to develop an estimate of these fees;

7. Commenters' views on whether a Section 31 fee-like cost allocation framework (*i.e.*, a transaction-based fee framework) would benefit or harm efficiency, competition, and capital formation, and any views on whether there are other benefits or costs of adopting such an approach;

8. Commenters' views on the calculation of the Participant Allocation and the Adjusted Participant Allocation;

9. Commenters' views on the determination to allocate 60% of the Adjusted Participant Allocation to Equities Participants and 40% to Options Participants, including views on whether the proposed allocation is consistent with the funding principles expressed in the CAT NMS Plan that state that the Operating Committee shall seek, among other things, "to establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act taking into account . . . distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company resources and operations,"<sup>440</sup> and "to avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality;"<sup>441</sup>

10. Commenters' views on an alternative approach that would split costs between Participants and Industry

Members by proportion of aggregate message traffic, then allocate the Participants' portion of fees across Participants by market share, with or without the proposed 60%–40% split between Equities and Options Participants; any views on whether this would benefit or harm efficiency, competition and capital formation when compared to the Participants' proposal; and any views on whether there are other benefits or costs of adopting such an approach;

11. Commenters' views on whether elements of the Participants' proposal entail cross-subsidization of activities (for example: Allocating 60% of Participants' fees to Equities Participants and 40% to Options Participants is unlikely to reflect these groups' relative message traffic; and discounting fees associated with message traffic for market-making activities based on quote/trade ratios reduces fees paid by Industry Members who are market makers); any views on how these cross-subsidizations benefit or harm efficiency, competition, and capital formation; and any views on whether there are other benefits or costs of adopting such an approach;

12. Commenters' views on whether the lack of Industry Member participation on the Operating Committee prevents the Participants from arriving at an equitable allocation of CAT fees between Participants and Industry Members, and across members of those groups;

13. Commenters' views on how any inherent conflicts of interest may be addressed in the proposal;

14. Commenters' views on how allowing the Operating Committee to determine by vote how Participant fees are allocated across Participants would benefit or harm efficiency, competition, and capital formation, assuming that some proportion of CAT fees are to be allocated to Participants as a group; and any views on whether there are other benefits or costs of adopting such an approach;

15. Commenters' views on the proposed quarterly Participant CAT fee, including views on its calculation; any views on whether the proposed fee raises any competitive issues; and any views on whether the proposed fee is consistent with the funding principles expressed in the CAT NMS Plan, which state that the Operating Committee shall seek, among other things, "to create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and the other

<sup>438</sup> Section 11.2(b) of the CAT NMS Plan.

<sup>439</sup> Section 11.2(e) of the CAT NMS Plan.

<sup>440</sup> Section 11.2(b) of the CAT NMS Plan.

<sup>441</sup> Section 11.2(e) of the CAT NMS Plan.

costs of the Company;"<sup>442</sup> "to establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act taking into account . . . distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company resources and operations;"<sup>443</sup> and "to avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality;"<sup>444</sup> and

16. Commenters' views on the decision to use total budgeted costs for the CAT for the relevant year as the Total CAT Costs for calculating fees for Participants and Industry Members, rather than costs already incurred; views on the statement that the total budgeted costs for the CAT may be adjusted on a quarterly basis by the Operating Committee; and views on the treatment of any surpluses.

The Commission also requests that commenters provide analysis to support their views, if possible.

Interested persons are invited to submit written data, views, and arguments regarding whether the proposals should be approved or disapproved by August 16, 2021. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by August 30, 2021. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 4–698 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.
- All submissions should refer to File Number 4–698. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the Participants' principal offices. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4–698 and should be submitted on or before August 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>445</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–15810 Filed 7–23–21; 8:45 am]

**BILLING CODE 8011–01–P**

### **SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #17041 and #17042; Georgia Disaster Number GA–00124]**

#### **Administrative Declaration of a Disaster for the State of Georgia**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Georgia dated 07/20/2021.

*Incident:* Severe Storms and Tornadoes.

*Incident Period:* 03/25/2021 through 03/26/2021.

**DATES:** Issued on 07/20/2021.

*Physical Loan Application Deadline Date:* 09/20/2021.

*Economic Injury (EIDL) Loan Application Deadline Date:* 04/20/2022.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance,

U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Coweta.

*Contiguous Counties:*

Georgia: Carroll, Fayette, Fulton, Heard, Meriwether, Spalding, Troup.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere .....	2.500
Homeowners without Credit Available Elsewhere .....	1.250
Businesses with Credit Available Elsewhere .....	6.000
Businesses without Credit Available Elsewhere .....	3.000
Non-Profit Organizations with Credit Available Elsewhere ...	2.000
Non-Profit Organizations without Credit Available Elsewhere .....	2.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere .....	3.000
Non-Profit Organizations without Credit Available Elsewhere .....	2.000

The number assigned to this disaster for physical damage is 17041 C and for economic injury is 17042 O.

The State which received an EIDL Declaration # is Georgia.

(Catalog of Federal Domestic Assistance Number 59008)

**Isabella Guzman,**  
*Administrator.*

[FR Doc. 2021–15829 Filed 7–23–21; 8:45 am]

**BILLING CODE 8026–03–P**

### **DEPARTMENT OF TRANSPORTATION**

#### **Federal Aviation Administration**

**[Summary Notice No. 2021–2074]**

#### **Petition for Exemption; Summary of Petition Received; Joshua Aaron Alameda**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice.

<sup>442</sup> Section 11.2(a) of the CAT NMS Plan.

<sup>443</sup> Section 11.2(b) of the CAT NMS Plan.

<sup>444</sup> Section 11.2(e) of the CAT NMS Plan.

<sup>445</sup> 17 CFR 200.30–3(a)(85).

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before August 16, 2021.

**ADDRESSES:** Send comments identified by docket number FAA–2021–0321 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

*Privacy:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

*Docket:* Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tiffany Jackson (202–267–3796), Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

**Timothy R. Adams,**

*Acting Executive Director, Office of Rulemaking.*

#### PETITION FOR EXEMPTION

*Docket No.:* FAA–2021–0321.

*Petitioner:* Joshua Aaron Alameda.

*Section(s) of 14 CFR Affected:*

§§ 61.65 and 61.73.

*Description of Relief Sought:* The petitioner seeks exemption from title 14, Code of Federal Regulations 61.65 *Instrument rating requirements*, and 61.73 *Military pilots or former military pilots: Special rules*, for the purpose of obtaining an instrument rating added to the petitioner's commercial pilot certificate with rotorcraft-helicopter rating. Specifically, the petitioner seeks to obtain a rotorcraft instrument rating based on experience acquired during the petitioner's participation in a military undergraduate pilot training program.

[FR Doc. 2021–15837 Filed 7–23–21; 8:45 am]

**BILLING CODE 4910–13–P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0098]

##### Parts and Accessories Necessary for Safe Operation; Application for an Exemption From EROAD Inc.

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** FMCSA requests public comment on an application for exemption from EROAD Inc. (EROAD) to allow its Dashcam system, which is equipped with cameras, to be mounted lower in the windshield on commercial motor vehicles than is currently permitted.

**DATES:** Comments must be received on or before August 25, 2021.

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA–2021–0098 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> / [#!docketDetail;D=FMCSA-2021-0098](#). Follow the online instructions for submitting comments.

- *Mail:* Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of

Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

- *Fax:* (202) 493–2251.

**FOR FURTHER INFORMATION CONTACT:** Mr. José R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

#### SUPPLEMENTARY INFORMATION:

##### I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

##### Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA 2021–0098), indicate the specific section of this document to which the comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to [www.regulations.gov](http://www.regulations.gov) / [#!docketDetail;D=FMCSA-2021-0098](#), click on the “Comment Now!” button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

### Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov/#!docketDetail;D=FMCSA-2021-0098> and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations.

### Privacy Act

DOT solicits comments from the public to better inform its regulatory processes, in accordance with statute 49 U.S.C. 31315(b)(6)(A). DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL 14—Federal Docket Management System), which can be reviewed at [www.transportation.gov/privacy](http://www.transportation.gov/privacy).

## II. Legal Basis

FMCSA has authority under 49 U.S.C. 31315(b) to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request. The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and

conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

### EROAD's Application for Exemption

The FMCSRs require devices meeting the definition of "vehicle safety technology" to be mounted (1) not more than 4 inches below the upper edge of the area swept by the windshield wipers, or (2) not more than 7 inches above the lower edge of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. EROAD has applied for an exemption from 49 CFR 393.60(e)(1) to allow its Dashcam system, which is equipped with camera(s) and safety technologies, to be mounted lower in the windshield than is currently permitted. A copy of the exemption application is included in the docket referenced at the beginning of this notice.

### Request for Comments

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on EROAD's application for an exemption. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021-15872 Filed 7-23-21; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2021-0075]

### Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on June 29, 2021, Union Pacific Railroad Company (UP) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety

regulations contained at 49 CFR 236.566, *Locomotive of each train operating in train stop, train control or cab signal territory; equipped*. FRA assigned the petition Docket Number FRA-2021-0075.

UP seeks relief from the requirements of 49 CFR 236.566 to operate locomotives not equipped with automatic train control (ATC) in two locations: The Omaha Subdivision between control point (CP) B328 and CP B349 and the Blair Subdivision between CP B328 and mile post (MP) 328.3. UP states that trains that pass through these locations otherwise operate on non-ATC territory, and to comply with § 236.566 in these two locations, new locomotives with the correct signal equipment would need to be brought onto trains passing through. UP further states that this request would not have an adverse effect on safety, as the use of wayside signals governs movement in the subject locations.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov).

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- **Website:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202-493-2251.
- **Mail:** Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave. SE, W12-140, Washington, DC 20590.

Communications received by September 9, 2021 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its

processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov).

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety,  
Chief Safety Officer.*

[FR Doc. 2021-15834 Filed 7-23-21; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF THE TREASURY

### Fiscal Service

#### **Proposed Collection of Information: Annual Letters—Certificates of Authority (A) and Admitted Reinsurer (B)**

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning Annual Letters—Certificates of Authority (A) and Admitted Reinsurer (B).

**DATES:** Written comments should be received on or before September 24, 2021 to be assured of consideration.

**ADDRESSES:** Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006-A, P.O. Box 1328, Parkersburg, WV 26106-1328, or [bruce.sharp@fiscal.treasury.gov](mailto:bruce.sharp@fiscal.treasury.gov).

#### **SUPPLEMENTARY INFORMATION:**

*Title:* Annual Letters—Certificates of Authority (A) and Admitted Reinsurer (B).

*OMB Number:* 1530-0014.

*Abstract:* The information is collected so that Treasury can make the appropriate determinations as to the renewal of the Certificates of Authority of currently certified companies and the renewal of companies currently recognized by Treasury as Admitted Reinsurers. Included in the package is the Annual Letter to Executive Officers

of Surety Companies Reporting to the Treasury (A) and the Annual Letter to Executive Officers of Companies Recognized by the Treasury as Admitted Reinsurers of Surety Companies Doing Business with the United States Government (B). The Secretary of the Treasury has been given authority pursuant to 31 U.S.C., 9304-9308 to certify insurance companies wishing to write or reinsure federal surety bonds. The authority has been further codified at 31 CFR, Part 223.9 which specifies guidelines applicable to companies seeking certification while Part 223.12 specifies requirements applicable to companies seeking recognition as an Admitted Reinsurer.

*Current Actions:* Extension of a currently approved collection.

*Type of Review:* Regular.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 341.

*Estimated Time per Respondent:* 18.75 hours.

*Estimated Total Annual Burden Hours:* 6,394.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 20, 2021.

**Bruce A. Sharp,**

*Bureau PRA Clearance Officer.*

[FR Doc. 2021-15798 Filed 7-23-21; 8:45 am]

**BILLING CODE 4810-AS-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### **Proposed Collection; Comment Request for Form 1096**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Annual Summary and Transmittal of U.S. Information Returns.

**DATES:** Written comments should be received on or before September 24, 2021 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

#### **FOR FURTHER INFORMATION CONTACT:**

Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, at (202) 317-5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at [Martha.R.Brinson@irs.gov](mailto:Martha.R.Brinson@irs.gov).

#### **SUPPLEMENTARY INFORMATION:**

*Title:* Annual Summary and Transmittal of U.S. Information Returns.

*OMB Number:* 1545-0108.

*Form Number:* 1096.

*Abstract:* Form 1096 is used to transmit information returns (Forms 1099, 1098, 5498, and W-2G) to the IRS service centers. Under Internal Revenue Code section 6041 and related regulations, a separate Form 1096 is used for each type of return sent to the service center by the payer. It is used by IRS to summarize, categorize, and process the forms being filed.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, individuals or households, not-for-profit institutions, farms, Federal government, and State, local or tribal governments.

*Estimated Number of Respondents:* 5,640,300.

*Estimated Time per Respondent:* 13.8 min.

*Estimated Total Annual Burden Hours:* 1,297,269.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments:** Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 19, 2021.

**Martha R. Brinson,**  
Tax Analyst.

[FR Doc. 2021-15786 Filed 7-23-21; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Special Valuation Rules.

**DATES:** Written comments should be received on or before September 24, 2021 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, at

(202)317-5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at [Martha.R.Brinson@irs.gov](mailto:Martha.R.Brinson@irs.gov).

#### SUPPLEMENTARY INFORMATION:

**Title:** Special Valuation Rules.

**OMB Number:** 1545-1241.

**Regulation Project Number:** TD 8395.

**Abstract:** Section 2701 of the Internal Revenue Code allows various elections by family members who make gifts of common stock or partnership interests and retain senior interest. This regulation provides guidance on how taxpayers make these elections, what information is required, and how the transfer is to be disclosed on the gift tax return (Form 709).

**Current Actions:** There are no changes being made to the regulation at this time.

**Type of Review:** Extension of a currently approved collection.

**Affected Public:** Individuals or households.

**Estimated Number of Respondents:** 1,200.

**Estimated Time per Respondent:** 25 mins.

**Estimated Total Annual Burden Hours:** 496.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments:** Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 19, 2021.

**Martha R. Brinson,**  
Tax Analyst.

[FR Doc. 2021-15802 Filed 7-23-21; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Information Collection Tools Relating to the Voluntary Disclosure Practice and the Streamlined Filing Compliance Procedures

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice; correction.

**SUMMARY:** The Internal Revenue Service published a document in the **Federal Register** on July 7, 2021, concerning requests for comments on the forms 14452, 14453, 14454, 14457, 14467, 14653, 14654, and 14708. The document was inadvertently titled Offshore Voluntary Disclosure Program (OVDP) and included forms that have been discontinued. Forms 14452, 14453, 14454, 144657, and 14708 are obsolete and no longer in use. The correct title is now Voluntary Disclosure Practice and the Streamlined Filing Compliance Procedures.

**DATES:** Written comments should be received on or before September 24, 2021 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317-5751 or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at [Kerry.Dennis@irs.gov](mailto:Kerry.Dennis@irs.gov).

#### SUPPLEMENTARY INFORMATION:

**Title:** Voluntary Disclosure Practice and the Streamlined Filing Compliance Procedures.

**OMB Number:** 1545-2241.

**Form Number(s):** 14457, 14653, and 14654.

**Abstract:** The IRS offers two very different compliance paths to two very different populations of taxpayers. First, the Voluntary Disclosure Practice is a longstanding practice of IRS Criminal Investigation (CI). CI takes timely, accurate, and complete voluntary disclosures under consideration when determining whether to recommend criminal prosecution. A voluntary

disclosure will not automatically guarantee immunity from prosecution; however, a voluntary disclosure may result in prosecution not being recommended. Form 14457 is used for all voluntary disclosures. Second, the Streamlined Filing Compliance Procedures are available to eligible taxpayers who can truthfully certify that their failure to report foreign financial assets and pay all tax due in respect of those assets resulted from non-willful conduct. Forms 14653 and 14654 relate to the Streamlined Filing Compliance Procedures.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB procedure.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or Households.

*Estimated Number of Respondents:* 16,000.

*Estimated Time per Response:* 25 hours, 38 min.

*Estimated Total Annual Burden Hours:* 410,000.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 14, 2021.

**Kerry L. Dennis,**

*Tax Analyst.*

[FR Doc. 2021-15769 Filed 7-23-21; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Form 461

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Limitation on Business Losses.

**DATES:** Written comments should be received on or before September 24, 2021 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, at (202) 317-5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at [Martha.R.Brinson@irs.gov](mailto:Martha.R.Brinson@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Limitation on Business Losses.

*OMB Number:* 1545-2283.

*Form Number:* 461.

*Abstract:* Form 461 and its separate instructions calculates the limitation on business losses, and the excess business losses that will be treated as net operating loss (NOL) carried forward to subsequent taxable years. In the case of a partnership or S corporation, the provision applies at the partner or shareholder level. This form is used by noncorporate taxpayers and will be attached to a tax return (F1040, 1040NR, 1041, 1041-QFT, 1041-N, or 990-T).

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, Business or other for-profit organization, and not-for-profit institutions.

*Estimated Number of Responses:* 2,909,026.

*Estimated Time per Response:* 22 mins.

*Estimated Total Annual Burden Hours:* 1,105,430.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 19, 2021.

**Martha R. Brinson,**

*Tax Analyst.*

[FR Doc. 2021-15787 Filed 7-23-21; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Fiscal Service Implementing Regulations for the Government Securities Act of 1986, as Amended

**AGENCY:** Departmental Offices, U.S. Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork

Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

**DATES:** Comments should be received on or before August 25, 2021 to be assured of consideration.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:**

Copies of the submissions may be obtained from Molly Stasko by emailing [PRA@treasury.gov](mailto:PRA@treasury.gov), calling (202) 622–8922, or viewing the entire information collection request at [www.reginfo.gov](http://www.reginfo.gov).

**SUPPLEMENTARY INFORMATION:**

**Fiscal Service (FS)**

*Title:* Government Securities Act of 1986, as amended.

*OMB Control Number:* 1530–0064.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* The information collection is contained within the regulations issued pursuant to the GSA, which require government securities brokers and dealers to make and keep certain records concerning their business activities and their holdings of government securities, to submit financial reports, and to make certain disclosures to investors. The regulations also require depository institutions to keep certain records of non-fiduciary custodial holdings of government securities. The regulations and

associated information collection are fundamental to customer protection and dealer financial responsibility.

*Form:* G–FIN–4, G–FIN–5, G–405 Part I, G–405 Part II, G–405 Part IIA, G–405 Part III, G–405 Schedule I.

*Affected Public:* Business and for-profit institutions.

*Estimated Number of Respondents:* 2,670.

*Frequency of Response:* On Occasion.

*Estimated Total Number of Annual Responses:* 2,670.

*Estimated Total Annual Burden Hours:* 215,111 hours.

*Authority:* 44 U.S.C. 3501 *et seq.*

Dated: July 21, 2021.

**Molly Stasko,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2021–15864 Filed 7–23–21; 8:45 am]

**BILLING CODE 4810–AS–P**

# Reader Aids

## Federal Register

Vol. 86, No. 140

Monday, July 26, 2021

### CUSTOMER SERVICE AND INFORMATION

#### Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-741-6000****Laws** **741-6000**

#### Presidential Documents

Executive orders and proclamations **741-6000****The United States Government Manual** **741-6000**

#### Other Services

Electronic and on-line services (voice) **741-6020**Privacy Act Compilation **741-6050**

### ELECTRONIC RESEARCH

#### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: [www.govinfo.gov](http://www.govinfo.gov).Federal Register information and research tools, including Public Inspection List and electronic text are located at: [www.federalregister.gov](http://www.federalregister.gov).

#### E-mail

**FEDREGTOC** (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.To join or leave, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your email address, then follow the instructions to join, leave, or manage your subscription.**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.**FEDREGTOC** and **PENS** are mailing lists only. We cannot respond to specific inquiries.**Reference questions.** Send questions and comments about the Federal Register system to: [fedreg.info@nara.gov](mailto:fedreg.info@nara.gov)

The Federal Register staff cannot interpret specific documents or regulations.

### FEDERAL REGISTER PAGES AND DATE, JULY

34905-35216.....	1
35217-35382.....	2
35383-35594.....	6
35595-36060.....	7
36061-36192.....	8
36193-36482.....	9
36483-36632.....	12
36633-36986.....	13
36987-37212.....	14
37213-37668.....	15
37669-37890.....	16
37891-38206.....	19
38207-38406.....	20
38407-38536.....	21
38537-38904.....	22
38905-39938.....	23
39939-40140.....	26

### CFR PARTS AFFECTED DURING JULY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

#### 3 CFR

**Proclamations:**  
 10231.....35385  
 10232.....38207  
 10233.....38535

**Administrative Orders:**  
**Memorandums:**  
 Memorandum of June 29, 2021.....35383  
 Memorandum of July 19, 2021.....39939

**Notices:**  
 Notice of July 7, 2021.....36479, 36481  
 Notice of July 20, 2021.....38901, 38903

**Executive Orders:**  
 14036.....36987

#### 5 CFR

890.....36872

#### 6 CFR

Ch. I.....38209

#### 7 CFR

457.....38537  
 925.....37213  
 1218.....37669  
 1291.....39941  
 1710.....36193  
 1714.....36193  
 1717.....36193  
 1718.....36193  
 1721.....36193  
 1726.....36193  
 1730.....36193  
 1767.....36193

**Proposed Rules:**  
 986.....35409  
 1218.....38590

#### 8 CFR

212.....37670  
 214.....37670  
 245.....37670  
 274a.....37670

**Proposed Rules:**  
 214.....35410  
 248.....35410  
 274a.12.....35410

#### 9 CFR

352.....37216

**Proposed Rules:**  
 327.....37251  
 351.....37251  
 354.....37251  
 355.....37251  
 381.....37251  
 500.....37251

592.....37251

#### 10 CFR

50.....38905  
 52.....34905  
 431.....37001

**Proposed Rules:**  
 2.....39980  
 52.....34999, 35023  
 171.....39980  
 429.....36018  
 430.....35660, 35668, 37687, 38594  
 431.....36018, 37069, 37708

#### 12 CFR

204.....38905  
 655.....37671  
 702.....34924  
 1022.....35595  
 Ch. XII.....36199

**Proposed Rules:**  
 43.....38607  
 244.....38607  
 373.....38607  
 1234.....38607

#### 13 CFR

121.....38537  
 124.....38537

#### 14 CFR

1.....39942  
 25.....37013, 37015  
 39.....34933, 35217, 35387, 35599, 35601, 36061, 36064, 36202, 36205, 36207, 36483, 36485, 36487, 36491, 36633, 36635, 36638, 37017, 37019, 37219, 37221, 37224, 37226, 37229, 37231, 37891, 38209, 38212, 38214, 38218, 38220, 38223, 38225, 38407, 38410, 38538, 38541, 38907, 38909, 38912, 38914, 39942  
 61.....36493, 39942  
 71.....34937, 35221, 36210, 36212, 37234, 37235, 37238, 37672, 38229, 38916, 39918, 38919, 39949, 39952, 39953, 39956, 39957, 39958  
 95.....37893  
 97.....34938, 34941, 36641, 36642, 37897, 37899  
 101.....39942  
 107.....39942  
 141.....36493

**Proposed Rules:**  
 39.....35027, 35410, 35413, 35416, 35690, 35692, 35695, 35697, 36241, 36243, 36516, 37087, 37255, 27258, 37936, 38239, 38242, 38608, 38613,

38615, 38941, 38943, 38946, 38949, 38950, 39984	<b>Proposed Rules:</b>	<b>Proposed Rules:</b>	155.....36071
71 .....35233, 35235, 35237, 35419, 35420, 37090, 37939, 37941, 38245, 38419, 38617, 38953, 38954, 39986	9.....37260, 37265	1.....35429	156.....36872
259.....38420	<b>28 CFR</b>	<b>38 CFR</b>	<b>Proposed Rules:</b>
260.....38420	50.....37674	<b>Proposed Rules:</b>	147.....35156
<b>15 CFR</b>	<b>Proposed Rules</b>	1.....38958	155.....35156
744 .....35389, 36496, 37901	16.....38624, 38955	<b>39 CFR</b>	156.....35156
<b>16 CFR</b>	<b>29 CFR</b>	111.....35606	<b>46 CFR</b>
0.....38542	1910.....37038, 38232	233.....38413	Ch. I.....37238
1.....38542	2590.....36872	<b>Proposed Rules:</b>	<b>47 CFR</b>
323.....37022	4000.....36598	Ch. III.....36246	Ch. I.....37061
<b>Proposed Rules:</b>	4262.....36598	<b>40 CFR</b>	54.....37058, 38570
Ch. I.....35239	<b>Proposed Rules:</b>	51.....37918	64.....35632
<b>17 CFR</b>	10.....38816	52.....35404, 35608, 35610, 36227, 36665, 37053, 37918, 38562, 38928, 38931, 39978	73.....34965, 35231, 37058, 37935, 38934, 38935, 38936, 38937
<b>Proposed Rules:</b>	23.....38816	62.....35406	74.....37060
246.....38607	1402.....38627	80.....37681	<b>Proposed Rules:</b>
<b>19 CFR</b>	1910.....36073	81.....37683	1.....37972
Ch. I.....38554, 38556	<b>30 CFR</b>	180.....36666, 37055	2.....35700, 37982
10.....35566	550.....38557	228.....38563	15.....35046, 35700, 37982, 38969
102.....35566	926.....37039	<b>Proposed Rules:</b>	73.....37972, 37982
132.....35566	<b>31 CFR</b>	52.....35030, 35034, 35042, 35244, 35247, 36673, 37942, 38433, 38627, 38630, 38643, 38652, 39988	74.....35046, 37982
134.....35566	1.....35396	62.....35044	90.....35700, 37982
145.....38553	589.....37904, 37907	81.....35254	95.....35700, 37982
163.....35566	<b>Proposed Rules:</b>	141.....37948	<b>48 CFR</b>
182.....35566	33.....35156	<b>41 CFR</b>	204.....36229
190.....35566	520.....35399	<b>Proposed Rules:</b>	212.....36229
<b>Proposed Rules:</b>	<b>32 CFR</b>	51-1.....38960	252.....36229
102.....35422	169.....37676	51-2.....38960	501.....34966
177.....35422	169a.....37676	51-3.....38960	552.....34966
<b>20 CFR</b>	199.....36213	51-4.....38960	570.....34966
200.....35221	310.....38560	51-5.....38960	<b>Proposed Rules:</b>
295.....34942	<b>33 CFR</b>	51-6.....38960	615.....35257
404.....38920	Ch. I.....37238	51-7.....38960	652.....35257
416.....38920	100.....35399, 35604, 37045, 37239, 38233, 39959	51-8.....38960	<b>49 CFR</b>
<b>21 CFR</b>	117.....35402, 39961, 39963	51-9.....38960	381.....35633
573.....37035, 37037	165.....34958, 34960, 34961, 34963, 34964, 35224, 35225, 35403, 36066, 36067, 36068, 36070, 36646, 37047, 37049, 37051, 37242, 37244, 37677, 37910, 37911, 37914, 37916, 38236, 38238, 38925, 38926	51-10.....38960	382.....35633
1141.....36509	207.....37246	<b>42 CFR</b>	383.....35633
1305.....38230	210.....35225	414.....38569	384.....35633, 38937
1308.....37672	214.....35226	510.....36229	385.....35633
<b>Proposed Rules:</b>	273.....37053	600.....35615	390.....35633
1308.....37719, 38619	274.....37249	<b>Proposed Rules:</b>	391.....35633
<b>24 CFR</b>	326.....37246	403.....39104	Ch. XII.....38209
11.....35391	<b>Proposed Rules:</b>	405.....39104	<b>Proposed Rules:</b>
92.....34943	100.....35240, 37270	409.....35874	385.....35443
<b>Proposed Rules:</b>	165.....35242	410.....39104	393.....35449
267.....38607	<b>34 CFR</b>	411.....39104	<b>50 CFR</b>
<b>25 CFR</b>	Ch. II.....36217, 36220, 36222, 36510, 36648, 37679	413.....36322	17.....34979, 38570, 38572
48.....34943	Ch. III.....36656, 39965	414.....39104	20.....37854
<b>26 CFR</b>	686.....36070	415.....39104	300.....35653, 38415
54.....36872	<b>36 CFR</b>	423.....39104	622.....38416
<b>Proposed Rules:</b>	<b>Proposed Rules:</b>	424.....35874, 39104	635.....36669
1.....39910	7.....37725	425.....39104	648.....36671, 38586
53.....39910	<b>37 CFR</b>	484.....35874	660.....36237, 37249
54.....36870, 39910	1.....35226, 35229	488.....35874	665.....36239
301.....39910	2.....35229	489.....35874	679.....36514, 38418, 38588
<b>27 CFR</b>	<b>Proposed Rules:</b>	498.....35874	<b>Proposed Rules:</b>
9.....34952, 34955	7.....37725	512.....36322	17.....35708, 36678, 37091, 37410, 38246
70.....34957	<b>38 CFR</b>	<b>45 CFR</b>	218.....37790
	1.....35226, 35229	144.....36872	635.....38262
	2.....35229	147.....36872	648.....36519
		149.....36872	665.....37982

---

**LIST OF PUBLIC LAWS**

---

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at <https://www.archives.gov/federal-register/laws>.

The text of laws is not published in the **Federal**

**Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available at <https://www.govinfo.gov>. Some laws may not yet be available.

**H.R. 1652/P.L. 117-27**  
VOCA Fix to Sustain the  
Crime Victims Fund Act of

2021 (July 22, 2021; 135 Stat. 301)

Last List July 8, 2021

---

**Public Laws Electronic  
Notification Service  
(PENS)**

---

**PENS** is a free email notification service of newly enacted public laws. To subscribe, go to <https://>

[listserv.gsa.gov/cgi-bin/wa.exe?SUBED1=PUBLAWS-L&A=1](https://listserv.gsa.gov/cgi-bin/wa.exe?SUBED1=PUBLAWS-L&A=1)

**Note:** This service is strictly for email notification of new laws. The text of laws is not available through this service.

**PENS** cannot respond to specific inquiries sent to this address.